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March 15. 1873.

BROUGHAM'S WORKS

UNIV. OF

CHÂTEAU ELEONORE-LOUISE,

BUILT BY LORD BROUGHAM, 1836. ENLARGED 1853.

WORKS

OF

HENRY LORD BROUGHAM

VOL. IX.

SPEECHES

VOL. I.

EDINBURGH
ADAM AND CHARLES BLACK
1872

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PREFACE.

The selection of the Speeches was for the most part made by friends who were well acquainted with the history of the times, and in whose judgment reliance could be placed. The greater part of them were contained in the four volumes published by Messrs. Black and Longman, in 1838, who have kindly consented to the use here made of that publication. It was inscribed to Marquess Wellesley, K.G., in the following terms:—"To the Most Noble Richard Marquess Wellesley, successively the Governor-General of India, British Ambassador in Spain, Secretary of State for Foreign Affairs, and Lord-Lieutenant of Ireland, these volumes are inscribed as a tribute most justly due to so illustrious a statesman; and in commemoration of the rare felicity of England, so rich in genius and capacity for affairs, that she can spare from her service such men as Lord Wellesley."

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CANNES

AND

LORD BROUGHAM'S CONNECTION WITH FRANCE.

AS several of the volumes of this series were revised and edited by Lord Brougham during his residence at Cannes, it has been thought that some interest would be added to his works by a view of his seat there, to which he was apparently so much attached, and where he enjoyed the retirement that was so conducive to his literary pursuits.* An account of Lord Brougham's connection with France is fortunately provided by a native of that country, M. Miguet, whose exhaustive and enthusiastic study of Lord Brougham's life and character enabled him to read a paper on the subject before the French Academy of Sciences, shortly after his death.

"Cannes," says M. Miguet, "had long been his favourite abode. Soon after leaving the government he took a journey into Italy. He passed through the south of France. On reaching the shores of the Mediterranean, he visited the already-celebrated

* "Lord Brougham's last work," says M. Miguet, "was a preface to a new edition of the History of England and France under the House of Lancaster. The subject was the duties of the historian. It was dated the 1st of February 1861, and written at his mansion of Cannes."

beach of that Gulf of Juan on which Napoleon landed on the 1st March 1815, to reconquer in twenty days the empire he was to lose in three months. Struck with the beauty of the spot, Lord Brougham stopped there. He bought a little land on a rising ground facing this smiling sea, and there built an agreeable dwelling, which became his winter residence for the third part of a century. He called the château Eleanor-Louise, in memory of a beloved daughter whom he had lost, and whose death had deeply grieved him. It was there that during nine-and-twenty years he spent all his winters, and wrote many of his books of political literature, natural philosophy, and history; it was there he renewed and extended his experiments on light, and wrote the ingenious essay in which he proved that bees showed a knowledge of geometry in the construction of their cells equal to that of the most skilful geometrician, and that the instinct, so precise and intelligent, of animals seems like a particle of divine science placed within them. It was from thence that he set out in the spring season to assist at the deliberations of the House of Lords, make speeches or publish books, and by word of mouth or through the press exert the influence of his learned, indefatigable, and generous spirit. During the double journey he undertook (in the autumn to reach Cannes, in the spring to return to England,) he always stopped in Paris. He never failed on Saturday to attend the *séance* of our Academy, and on Monday that of the Academy of Sciences, deeming it a great honour to belong to the one, and taking the deepest interest in the labours of the other. In spite of declining years, he preserved to the end the gentle habit of academical assiduity. We even saw him in the last year of his long life,—his once vigorous body now weighed down by infirmity, the gait once so energetic now slow, advancing with difficulty, expressing himself with hesitation, the will still firm, but the mind less ready and the old fire of the glance already nearly extinct,—appear in the midst of us and bid, as it were, a last farewell to the Academy which was to see him no more. He was indeed the effectual defender of political liberty, the persuasive advocate of civil equity, the reformer on many points of a legislation rendered more perfect, the zealous promoter of public education, the eloquent supporter of human emancipation. Prodigious in his

labours, illustrious in his services, Lord Brougham is reckoned among the great men who must be honoured with ever grateful remembrance by the country the glory of which they have kept up, the rights of which they have extended, who have done or intended good, and who, by the splendour of their talents and the generosity of their minds, will be held in perpetual esteem by posterity. He was then nearly eighty-nine years of age. Soon we learned that that strong intelligence had entirely failed, and that he whose rare talents had been employed on so many subjects, whose powerful words had resounded for more than half a century in so many assemblies—he who had been the witty, learned, eloquent Henry Brougham, after having in a manner survived himself for some time, passed away at Cannes on the 7th May 1868, in the ninetieth year of his age. . . . An innovator without vain fancies, a Conservative without prejudice, he never, in his books or in his actions, separated what was useful from what was upright, and he took a pride in harmonising the liberal progress of mankind and the moral order of society."

The view given in this volume represents the Château as it at present exists. In 1853 it was enlarged by extending the number of pillars on the east side of the centre and building the wing.

EDINBURGH, *December* 1872.

SPEECHES

IN TRIALS FOR LIBELS

CONNECTED WITH

MILITARY FLOGGING.

INTRODUCTION.

An opinion had for some years begun to prevail among political reasoners, and had found its way also into the army, that the punishment of flogging, to which our troops alone of all the European soldiery are subject, was cruel in its nature, hurtful to the military character in its effects, and ill calculated to attain the great ends of all penal infliction,—the reformation of the offender, and the prevention of other offences by the force of example. Several tracts had been published, chiefly by military officers, in which the subject was discussed; and among these the pamphlets of Generals Money, Stewart, and Sir Robert Wilson, were the most distinguished, both for their own merits, and the rank and services of their authors, who had never borne any part in political controversy, or in as far as they had been led by accidental circumstances to declare their opinions, had been found the supporters of the old established order of things in all its branches. In 1810, Mr. Cobbett, who having himself served in North America, had witnessed the effects of this species of punishment, and had naturally a strong respect for the character of the profession, published some strictures on the subject in his *Political Register*. That work enjoyed in those days a great circulation and influence. It always was one of extraordinary ability, and distinguished by a vigorous and generally pure English style; but it was disfigured by coarseness, and rendered a very unsafe guide by the

author's violent prejudices,—his intolerance of all opinions but his own, and indeed his contempt of all persons but himself,—his habitual want of fairness towards his adversaries,—his constant disregard of facts in his statements,—and the unblushing changes which he made in his opinions upon things, from extreme to extreme, and in his comments upon men, from the extravagance of praise to the excess of vituperation. These great defects, above all, the want of any fixed system of settled principle, almost entirely destroyed his influence as a periodical writer, and extremely reduced the circulation of his paper, long before his death and its discontinuance, which were contemporaneous; he having for the unexampled period of five and thirty years carried on this weekly publication unassisted by any one, although he was interrupted by his removal to America, whence he transmitted it regularly for several years, and was likewise both hampered by difficulties arising out of farming speculations, and occupied occasionally by several other literary works. But in 1810 his weight with the public had suffered little if any diminution, and a very large number of his *Register* was printed. The strictures on flogging were not distinguished by any of Mr. Cobbett's higher qualities of writing. They were a mere effusion of virulence upon the occasion of a punishment having taken place in the local militia of Ely. They were addressed not to the understanding nor even to the feelings of the reader; but rather to those of the soldiery who suffered the infliction, and of the bystanders who witnessed it; their tone and terms being, "You well deserve to be treated like brutes, if by submitting to it you show yourselves to be brutes."

Such was the spirit in which the few remarks in question were conceived; and indeed this was their substance, although these were not the words employed. According to the notions in those days entertained of the law of libel, it could excite no surprise that the

government prosecuted the author and publisher; Sir Vicary Gibbs, then Attorney-General, having frequently filed informations for remarks, as calm and temperate as these were coarse and violent. Mr. Cobbett was accordingly brought to trial in the month of June, 1810. He defended himself; and appearing then for the first time before a public audience, exhibited a new but by no means a rare example of the difference between writing and speaking; for nothing could be more dull and unimpressive than his speech, nothing less clear and distinct than its reasoning, more feeble than its style, or more embarrassed and inefficient than its delivery. The writer and the speaker could hardly be recognized as the same individual,—such is the effect of embarrassment, or such the influence of manner. But he afterwards defended himself in 1820 against actions brought by private parties whom he had slandered; and then, having by practice during the interval acquired considerable ease of speaking, his appearance was more than respectable,—it was very effective. His style was also abundantly characteristic and racy; it had great originality,—it suited the man,—it possessed nearly all the merits of his written productions, and it was set off by a kind of easy, good-humoured, comic delivery, with no little archness both of look and phrase, that made it clear he was a speaker calculated to take with a popular assembly out of doors, and by no means certain that he would not succeed even in the House of Commons; where when he afterwards came, he certainly did not fail, and would have had very considerable success had he entered it at an earlier age. In 1810 he was convicted (as in 1820, he had verdicts with heavy damages against him), and his sentence was a fine of £1,000, and two years' imprisonment in Newgate;—a punishment which may well make us doubt if we now, seeing the productions of the periodical press, live in the same country and under the same system of laws.

In the month of August immediately following, the subject was taken up by a writer of great powers, the late Mr. John Scott, who afterwards conducted a weekly paper, published in London, called the *Champion.* He was honourably distinguished by several literary works, and unfortunately fell in a duel, occasioned by some observations upon a gentleman whose conduct had come in question. In 1810 he was a contributor to the *Stamford News*, a Lincolnshire paper, distinguished for its constant adherence to the cause of civil and religious liberty. Its publisher, Mr. John Drakard, was a person of great respectability, and showed at once his high sense of honour, and his devotion to his principles, by steadily refusing to give up the author's name, when menaced with a prosecution. These remarks of Mr. Scott were soon afterwards copied into the *Examiner*, a London paper, then conducted by Messrs. J. and J. L. Hunt; and the Attorney-General filed informations both against them, for the publication in London, and against Mr. Drakard, for the original publication in the country,—a species of vindictive proceeding not without its effect in bringing all state prosecutions for libel soon afterwards into a degree of discredit which has led to their disuse.

The remarks were as follow:—

"ONE THOUSAND LASHES!!"

"The aggressors were not dealt with as Buonaparte would have treated his refractory troops."—SPEECH OF THE ATTORNEY-GENERAL.

"Corporal Curtis was sentenced to receive ONE THOUSAND LASHES, but, *after receiving Two Hundred*, was, on his own petition, permitted to volunteer into a regiment on foreign service. William Clifford, a private in the 7th royal *veteran* battalion, was lately sentenced to receive ONE THOUSAND LASHES, for repeatedly striking and kicking his superior officer. He underwent part of his sentence, by receiving *seven hundred and fifty lashes*, at Canterbury, in presence of the whole garrison. A garrison court-martial has been held on board the Metcalf transport, at Spithead, on some men of the fourth regiment of foot, for disrespectful be-

haviour to their officers. TWO THOUSAND AND SIX HUNDRED LASHES were to be inflicted among them. Robert Chilman, a private in the Bearstead and Malling regiment of local militia, who was lately tried by a court-martial for disobedience of orders, and mutinous and improper behaviour, while the regiment was embodied, has been found guilty of all the charges, and sentenced to receive EIGHT HUNDRED LASHES, which are to be inflicted on him at Chatham, to which garrison he is to be marched for that purpose."—*London Newspapers.*

"The Attorney-General said what was very true,—these aggressors have certainly not been dealt with as Buonaparte would have treated his refractory troops; nor, indeed, as refractory troops would be treated in any civilized country whatever, save and except only this country. Here alone, in this land of liberty, in this age of refinement, by a people who, with their usual consistency, have been in the habit of reproaching their neighbours with the cruelty of their punishment,—is still inflicted a species of torture, at least as exquisite as any that was ever devised by the infernal ingenuity of the Inquisition. No, as the Attorney-General justly says, Buonaparte does not treat his refractory troops in this manner; there is not a man in his ranks whose back is seamed with the lacerating cat-o'-nine-tails; his soldiers have never yet been brought up to view one of their comrades stripped naked; his limbs tied with ropes to a triangular machine; his back torn to the bone by the merciless cutting whipcord, applied by persons who relieve each other at short intervals, that they may bring the full unexhausted strength of a man to the work of scourging. Buonaparte's soldiers have never yet with tingling ears listened to the piercing screams of a human creature so tortured; they have never seen the blood oozing from his rent flesh; they have never beheld a surgeon, with dubious look, pressing the agonized victim's pulse, and calmly calculating, to an odd blow, how far suffering may be extended, until in its extremity it encroach upon life. In short, Buonaparte's soldiers cannot form any notion of that most heart-rending of all exhibitions on this side hell,—*an English military flogging.*

"Let it not be supposed that we intend these remarks to excite a vague and indiscriminating sentiment against punishment by military law; no, when it is considered that discipline forms the soul of an army, without which it would at once degenerate into a mob; when the description of persons which compose the body of what is called an army, and the situations in which it is frequently placed, are also taken into account, it will, we are afraid, appear but too evident, that the military

code must still be kept distinct from the civil, and distinguished by greater promptitude and severity. Buonaparte is no favourite of ours, God wot; but if we come to balance accounts with him on this particular head, let us see how matters will stand. He recruits his ranks by force,—*so do we.* We *flog* those whom we have forced,—*he does not.* It may be said he punishes them in some manner; that is very true. He imprisons his refractory troops, occasionally in chains, and in aggravated cases he puts them to death. But any of these severities is preferable to tying a human creature up like a dog, and cutting his flesh to pieces with whipcord. Who would not go to prison for two years, or indeed for almost any term, rather than bear the exquisite, the almost insupportable torment occasioned by the infliction of seven hundred or a thousand lashes? Death is mercy compared with such sufferings. Besides, what is a man good for after he has the cat-o'-nine-tails across his back? Can he ever again hold up his head among his fellows? One of the poor wretches executed at Lincoln last Friday, is stated to have been *severely punished* in some regiment. The probability is, that to this odious, ignominious flogging, may be traced his sad end; and it cannot be doubted that he found the gallows less cruel than the halberts. Surely, then, the Attorney-General ought not to stroke his chin with such complacency, when he refers to the manner in which Buonaparte treats his soldiers. We despise and detest those who would tell us that there is as much liberty now enjoyed in France as there is left in this country. We give all credit to the wishes of some of our great men; yet while anything remains to us in the shape of free discussion, it is impossible that we should sink into the abject slavery in which the French people are plunged. But although we do not envy the general condition of Buonaparte's subjects, we really (and we speak the honest conviction of our hearts) see nothing peculiarly pitiable in the lot of his soldiers when compared with that of our own. Were we called upon to make our election between the services, the whipcord would at once decide us. No advantage whatever can compensate for, or render tolerable to a mind but one degree removed from brutality, a liability to be lashed like a beast. It is idle to talk about rendering the situation of a British soldier pleasant to himself, or desirable, far less honourable, in the estimation of others, while the whip is held over his head, and over his head alone; for in no other country in Europe (with the exception, perhaps, of Russia, which is yet in a state of barbarity) is the military character so degraded. We once heard of an army of slaves, which had bravely withstood the *swords* of their masters, being defeated and dispersed by the bare shaking of the *instrument of flagel-*

lation in their faces. This brought so forcibly to their minds their former state of servitude and disgrace, that every honourable impulse at once forsook their bosoms, and they betook themselves to flight and to howling. We entertain no anxiety about the character of our countrymen in Portugal, when we contemplate their meeting the *bayonets* of Massena's troops; but we must own that we should tremble for the result, were the French general to despatch against them a few hundred drummers, each brandishing a *cat-o'-nine-tails*."

The Middlesex jury in Westminster, where the first of these two trials took place, after retiring for two hours, acquitted the defendants, Messrs. Hunt, although Lord Ellenborough had given a very powerful charge to them, in favour of the prosecution, and declared his opinion without any doubt to be, that the publication was made with the intentions imputed to it in the Information, of exciting disaffection in the army, and deterring persons from entering it.

Sir Robert Wilson, who had been subpœnaed as a witness by the defendants, but was not examined, sat on the bench by Lord Ellenborough during the whole proceedings, in the course of which allusion was made to his Tract, not only by the counsel on both sides, but by the learned judge, who, entertaining no doubt at all of the perfect purity of his intentions, expressed, but respectfully expressed, a wish that he had used more guarded language; and indeed, his Lordship thought that all officers, instead of publishing on so delicate a subject, ought to have privately given their opinions to the government.

At Lincoln, where Mr. Brougham went on a special retainer, three weeks afterwards, to defend Mr. Drakard, the difference between a provincial jury and one in the metropolis was seen; for there a conviction took place, and the publisher was afterwards, by the Court of King's Bench, where he was brought up for judgment, sentenced to eighteen months' imprisonment.

These trials were not without their influence upon

the great question to which they related. The speeches delivered, the discussion of the merits of the case in the public papers, the conversation to which, in the course of the next session, they gave rise in Parliament, brought, for the first time, this subject before the country, and also turned the attention of military men to it much more than it had heretofore been, among a class always prone to abide by existing usages, and hardly capable, indeed, of conceiving things to be other than as they have always found them. A subject which has since been discussed with the most unrestricted freedom of comment in all circles—in every kind of publication—in meetings of the people, as well as in the chambers of Parliament—before the troops themselves, as well as where only citizens were congregated,—and which has finally been made matter of investigation by a military board,—can at this time of day hardly be conceived to have excited, forty years ago, so much apprehension, that the broaching it at all, even in very measured terms, drew down censure from the bench upon general officers who had been so adventurous as to handle it; and the approaches to its consideration were carefully fenced by all the terrors with which the law of libel, vague and ill-defined, arms the executive government in this country. There seemed to prevail a general anxiety and alarm, lest, by the discussion, feelings of a dangerous kind should be excited in the soldiery. A mysterious awe hung over men's minds, and forbade them to break in upon the question. A fence was drawn around the ground, *taboo'd* as it were by military engines, and other symbols of mere force. A spell bound the public mind, like that invisible power which, on board of ship, keeps all men's limbs, with their minds, under the control of a single voice. The dissolving of this spell, and the dissipation for ever of all these apprehensions, must be traced to the trials of Drakard and the Hunts. The light is now let in upon this as upon all other questions,

whether of civil, or criminal, or military polity; and the reign of the lash is no more privileged from the control of public opinion, and the wholesome irritation of free discussion, than that of the hulks or the gibbet. Men may still form various opinions upon the subject. Enlightened statesmen and experienced captains may differ widely in the conclusions to which their observation and their reasoning have led them. It is still, perhaps, far from being demonstrated, that a punishment which such high authorities as the Duke of Wellington regarded as indispensable to a certain extent, can be all at once safely abandoned. But whatever may be the result of the inquiry, it is now an entirely open question. Its being thus thrown open, and placed on the same footing with every other chapter of our penal code, will assuredly lead to its being rightly settled in the end; and the trials to which we have adverted, mainly contributed to this salutary result.

CASE OF

JOHN HUNT AND JOHN LEIGH HUNT.

JANUARY 22, 1811.

MAY IT PLEASE YOUR LORDSHIP,—GENTLEMEN OF THE JURY,—In rising to support the cause of these defendants, I feel abundantly sensible of the difficulties under which they labour. It is not that they have to contend, with such unequal force on my part, against the talents and learning of the Attorney-General, and the high influence of his office; nor is it merely that they stand in the situation of defendants prosecuted by the Crown, for in ordinary cases they would have the common presumption of innocence to work in their favour; but the hardship of their case originates in the nature of the charge on which they are brought before you,—a charge of libel, at a time when the licentiousness of the press has reached to a height which it certainly never attained in any other country, nor even in this at any other time. That licentiousness, indeed, has of late years appeared to despise all the bounds which had once been prescribed to the attacks on private character, insomuch that there is not only no personage so important or exalted,—for of that I do not complain,—but no person so humble, harmless, and retired, as to escape the defamation which is daily and hourly poured forth by a venal tribe, to gratify the idle curiosity, or the less excusable malignity of the public. To mark out for the indulgence of that propensity, individuals retiring

into the privacy of domestic life,—to hunt them down for the gratification of their enemies, and drag them forth as a laughing-stock to the vulgar, has become in our days, with some men, the road even to popularity; but with multitudes, the means of earning a base subsistence. Gentlemen, the nature and the causes of this evil it is unnecessary for me to point out. Indeed, I am far from saying that there is nothing to extenuate it; I am ready even to admit that this abuse of the press in defaming private characters, does derive no small apology from the insatiable love of publicity which preys upon a great part of the community; leading them scarcely to value existence itself, if it is not passed in the eyes of the world, and to care but little what they do, so they be only stared at, or talked of. It furnishes somewhat of excuse, too, that the public itself is insatiable in its thirst for slander; swallows it with a foul, indiscriminate, appetite; and, liberal at least in its patronage of this species of merit, largely rewards those whom it sends forth to pander for those depraved tastes. But, in whatever way arising, or however palliated, the fact of the abuse of the press is certain, and the consequences are fatal to the press itself; for the licentiousness of which I complain has been the means of alienating the affections of those who had ever stood forward as its fastest friends and its firmest defenders. It has led them to doubt the uses of that which they had seen so perverted and abused. It has made them, instead of blessing "the useful light" of that great source of improvement, see in it only an instrument of real mischief, or doubtful good; and when they find, that instead of being kept pure, for the instruction of the world; instead of being confined to questioning the conduct of men in high situations, canvassing public measures, and discussing great general questions of policy; when they find that, instead of such, its legitimate objects, this inestimable blessing has been made subservient to the purposes of

secret malice, perverted to the torture of private feelings, and the ruin of individual reputation,—those men have at last come to view it, if not with hostility, at least with doubtful friendship, and relaxed zeal for its privileges. It is no small aggravation of this prejudice, that the defendants come into court to answer the charge against them, after other libels of a more general description have been published and prosecuted; after those, to which the Attorney-General has so forcibly alluded in the opening of this case, have so lately been brought before the Court, and their authors and circulators convicted. At first sight, and upon merely stating the subject of this publication, it is but natural for you to imagine that there is some similarity between those other cases and the present; and that a publication on the general subject of military punishment (which is the only point of resemblance), belongs to the same class of libels with those so anxiously alluded to by my learned friend,—with those particularly for which Mr. Cobbett, and probably some others, are suffering the sentence of the law.

The Attorney-General did not put these circumstances in the background; he was anxious to draw a parallel between this case and Mr. Cobbett's. It will be unnecessary for me to follow this comparison; all I say in the outset is, that I confidently predict, I shall not proceed far before I have convinced you, gentlemen, that light is not more different from darkness than the publication set forth in this record is different from all and each of the former publications, brought before the Court by the Attorney-General for conviction, and now again brought forward for argument. The consequence of all these prepossessions, in whatever way arising, is, I will not say fatal, but extremely hurtful to these defendants. It places them in a torrent of prejudice, in which they would in vain have attempted, and I should not have counselled them to stand, had they not rested on the firm footing of the

merits of their individual case, and the confidence that his lordship and you will cheerfully stretch forth an helping arm in the only way in which you can help them; in the only way in which they ask your aid—that you will do strict justice between the Crown and them, by entering into an examination of their single individual case.

Gentlemen, you have to try whether the particular publication, set forth in this Record, has manifestly, upon the bare appearance of it, been composed and published with the evil intention, and with the bad purpose as well as the hurtful tendency alleged in the Information. If their intention has apparently been good; or, whether laudable or not, if it has been innocent and not blameworthy; then, whatever you may think of the opinions contained in the work—even though you may think them utterly false and unfounded—in whatever light you may view it critically as a piece of composition—though you may consider the language as much too weak or as far too strong for the occasion—still if you are convinced there is nothing blameable in the intention which appears to have actuated the author and publisher (for I will take the question on the footing that the author himself is before you, though the evidence, on the face of it, bears me out in distinctly asserting that these defendants did not write this article, but copied it from another work which they particularly specify, yet, in order to argue the question more freely, I will suppose it is the case of the original composer, which you are now to try, and I am sure my learned friend cannot desire me to meet him on higher or fairer ground), I say then, that if you are not convinced—if, upon reading the composition attentively, you are not, every one of you, fully and thoroughly convinced—that the author had a blameable, a most guilty intention in writing it, and that he wrote it for a wicked purpose, you must acquit those defendants who republished it. This, gentlemen, is the particular

question you have to try; but I will not disguise from you that you are now trying a more general and important question than this. You are now to determine, whether an Englishman still enjoys the privilege of freely discussing public measures—whether an Englishman still possesses the privilege of impeaching (for if he has a right to discuss, he has a right to espouse whichever side his sentiments lead him to adopt, and may speak or write against, as well as for),—whether he has still a right to impeach, not one individual character, not one or two public men, not a single error in policy, not any particular abuse of an established system—I do not deny that he has the right to do all this, and more than this, but it is not necessary for me now to maintain it,—but the question for you to try is, whether an Englishman shall any longer have the power of making comments on a system of policy, of discussing a general, I had almost said an abstract political proposition, of communicating to his countrymen his opinion upon the merits, not of a particular measure, or even a line of conduct pursued by this or that administration, (though no man ever dreamt of denying him this also), but of a general system of policy, which it has pleased the Government to adopt at all times:—Whether a person, devoted to the interests of his country, warm in his attachment to its cause, vehemently impelled by a love of its happiness and glory, has a right to endeavour, by his own individual exertions, to make that perfect which he so greatly admires, by pointing out those little defects in its constitution which are the only spots whereupon his partial eyes can rest for blame:—Whether an Englishman, anxious for the honour and renown of the army, and deeply feeling how much the safety of his country depends upon the perfection of its military system, has a right to endeavour to promote the good of the service, by showing wherein the present system is detrimental to it, by marking out for correction those imperfections which bear, indeed, no

proportion to the general excellence of the establishment, those flaws which he is convinced alone prevent it from attaining absolute perfection?—Whether a person, anxious for the welfare of the individual soldier; intimately persuaded that on the feelings and the honour of the soldier depend the honour and glory of our arms; sensible that upon those feelings and that honour hinges the safety of the country at all times, but never so closely as at present,—whether, imbued with such sentiments, and urged by these motives, a man has not a right to make his opinions as public as is necessary to give them effect?—Whether he may not innocently, nay laudably, seek to make converts to his own views, by giving them publicity, and endeavour to realize his wishes for the good of the state, and the honour of its arms, by proving, in the face of his fellow-citizens, the truth of the doctrines to which he is himself conscientiously attached? These, gentlemen, are the questions put to you by this Record; and your verdict, when it shall be entered upon it, will decide such questions as these.

Gentlemen, it is, I am persuaded, known to all of you, that, for many years past, the anxious attention of the government of this country has been directed (at times, indeed, to the exclusion of all other considerations) towards the improvement of our military establishment. It would be endless, and it would be unnecessary for me to enter into the various projects for its improvement, which from time to time have been entertained by our rulers, and adopted or rejected by the legislature: it is enough that I should state, in one short sentence, that all those plans have had the same common objects—to protect and benefit the private soldier, to encourage the recruiting of the army, and to improve the character of those who compose it, by bettering the condition of the men themselves. In the prosecution of these grand leading designs, various plans have been suggested, by different

statesmen of great name; plans which I need not particularize, but to some of which, in so far as they relate to the present Information, it is necessary that I should direct your attention. One of the chief means suggested for improving the condition of the soldier, is shortening the duration of his service; and upon that important subject it is unnecessary for me to use words of my own, when I have, in a publication which is before the world, and, I dare say, has been before you (at least you cannot be unacquainted with the name and the fame of the author), that which better expresses my sentiments than any language I could use myself. The arguments are there so forcibly stated, and the subject is altogether placed in so luminous a point of view, that it is better for me to give them in the words of the respected writer, the gallant officer I have alluded to. It is Sir Robert Wilson, gentlemen, whose presence here as a witness, should it be necessary to call him, prevents me from saying, so strongly as I could wish, what, in common with every one, I do most sincerely feel—that there is not among all the brave men of whom the corps of officers in the British army is composed, one to whom the country, considering his rank and the time of his service, is more indebted—one who has more distinguished himself by his enthusiastic, I had almost said romantic, love of the service—one who has shown himself a more determined, I may really say personal, enemy of the ruler of France, or a faster friend to the cause and the person of his own Sovereign and of his Royal Allies. This gallant officer, in the year 1794, published a tract "On the means of improving and re-organizing the Military Force of this Empire." It was addressed to Mr. Pitt, then minister of the country, and whose attention, as well as that of the author, was at that time directed to whatever was likely to improve our military system,—to encourage the obedience, and exalt the character of the soldier already in the army,—and to promote the

recruiting of it from among those who had not yet entered into the service. He mentions a great variety of circumstances which deter men from enlisting, and render those who do enter of less value to the profession. Among others, he mentions the term, the duration of their service. He says, in a language powerful indeed, and strong, but anything rather than libellous, "It is strange that in a free country, a custom so repugnant to freedom, as enlisting for life, and to the particular character of the British constitution, should ever have been introduced; but more singular, that the practice should have been continued after every other nation in Europe had abandoned it as impolitic, and as too severe an imposition upon the subject." "If in those countries," he proceeds, "where the inferior orders of society are born in vassalage, and where the will of the sovereign is immediate law, this power has been relinquished, in order to incline men voluntarily to enlist, surely there is strong presumptive evidence that the general interests of the service are improved, instead of being injured, by this more liberal consideration." He then goes on to illustrate the same topic in terms still more expressive of the warmth of his feelings upon so interesting a question,—"The independence of an Englishman," says he, "naturally recoils at the prospect of bondage, which gradually produces discontent against the bent even of inclination." "How many men," he adds, in yet more glowing words,—but which I am far from blaming,—for I should have held him cheap, indeed, if, instead of giving vent to his sentiments in this free and appropriate manner, he had offered them as coldly and dryly as if he were drawing out a regimental return—"How many men are there who have now not the faintest wish to leave their own estates even for a journey into another country, but who, if restrained by any edict from quitting England, would find this island too narrow to contain them, would draw their

breath convulsively, as if they craved free air, and feel all the mental anguish of a prisoner in a dungeon? What is the inference to be now fairly drawn from the perseverance in the system of enlisting for life? Is it not that the British service is so obnoxious and little conciliating, that, if the permission to retire were accorded, the ranks would be altogether abandoned, and the skeleton only remain, as an eternal and mournful monument of the wretchedness of a soldier's condition? Is it not a declaration to the world, that the service is so ungrateful to the feelings of the soldiery, that when once the unfortunate victim is entrapped, it is necessary to secure his allegiance by a perpetual state of confinement?" He then advances, in the course of his inquiry, to another topic; and in language as strong, as expressive of his honest feelings, and, therefore, as appropriate and praiseworthy, he talks of the service in the West India Islands, and even goes so far as to wish those colonies were abandoned. I am not disposed to follow him in this opinion; I cannot go so far. But God forbid I should blame him for holding it; or that, for making his sentiments public, I should accuse him of having written a libel on that service, of which he is at once the distinguished ornament and the zealous friend. It might bear, perhaps, an insinuation that such a topic was inflammatory,—that it had a tendency to excite discontent among the soldiers,—and to deter men from entering into the service. But far from imputing that to the gallant officer, I respect him the more for publishing a bold and downright opinion,—for expressing his feelings strongly; it is the best proof that he felt keenly. He proposes no less than that the West India islands should be given up, in order to improve our means of defence at home. He says, "It is, however, to be hoped, that the day is not remote, when our colonies shall cease to be such a claim upon the active population of this country: that charnel-house must

be closed for ever against the British troops. The soldier who dies in the field is wrapped in the mantle of honour, and the pall of glory is extended over his relatives; but in a warfare against climate, the energy of the man is destroyed before life is extinguished; he wastes into an inglorious grave, and the calamitous termination of his existence offers no cheering recollection to relieve the affliction of his loss." Did Sir Robert Wilson mean to excite the brave and ill-fated regiments to mutiny and revolt who were already enclosed in those charnel-houses? or did he mean to deter persons from enlisting in those regiments, who might otherwise have been inclined to join them? Did he mean to address any of the regiments under actual orders for the West India service, and to excite revolt among them, by telling every one who read the passage I have cited, that which it so forcibly puts to all soldiers under such orders,—"Whither are you going? You are rushing into a charnel-house!" Far be it from me to impute such motives,—it is impossible! The words I have read are uttered in the discussion of a general question,—a question on which he speaks warmly, because he feels strongly. And pursuing the same course of reasoning in the same animated style, he comes to another and an important part, both of his argument and of the question in which we are now engaged.

In considering the nature of the tenure by which a soldier wears his sword; in considering that honour is to him what our all is to every body else; he views several parts of our military system as clashing in some sort with the respect due to a soldier's character; and, fired with a subject so near his heart, he at once enters into the question of military punishments, paints in language not at all weaker nor less eloquent than that of the publication before you,—in language that does him the highest honour,—the evils that result from the system of flogging, as practised in our army. He says,

"The second, and equally strong check to the recruiting of the army is the frequency of corporal punishment." Proceeding to enlarge on this most interesting point, in the course of his observations he uses such expressions as these. After judiciously telling us, that "it is in vain to expect a radical reform, until the principle of the practice is combated by argument, and all its evil consequences exposed by reasoning," he adds this assertion, for which every one must give him credit,—"Be this, however, as it may, I feel convinced that I have no object but the good of the service." He says, that "Sir Ralph Abercromby was also an enemy to corporal punishments for light offences; his noble and worthy successor, whose judgment must have great influence, Lord Moira, General Simcoe, and almost every general officer in the army, express the same aversion continually, but they have no power of interference." Of that interference, then, he thinks there is no prospect, unless by reason and argument, and by freely discussing it, we can influence the opinions of the country and the legislature,—a proposition to which all of us must readily assent. And he thus pursues,—"I feel convinced that I have no object but the good of the service, and, consequently, to promote the commander-in-chief's views, and that my feelings are solely influenced by love of humanity, a grateful sense of duty to brave men, and not by a false ambition of acquiring popularity,"—a motive which I am sure no one will impute to him. "If," he adds, "I did not think the subject of the most essential importance, no motive should induce me to bring it forward; if I was not aware that, however eager the commander-in-chief was to interpose his authority, the correction of the abuse does not altogether depend upon his *veto*, and cannot with due regard to the peculiar circumstances of his situation, be required to emanate abruptly from him. My appeal is made to the officers of the army and militia. for there must be no marked discrimination

between these two services, notwithstanding there may be great difference in their different modes of treating the soldiery. I shall sedulously avoid all personal allusions,—the object in view is of greater magnitude than the accusation of individual malefactors. I shall not enter into particulars of that excess of punishment which has, in many instances, been attended with the most fatal consequences. I will not, by quoting examples, represent a picture in too frightful a colouring for patient examination." He then says, "The present age is a remarkable epoch in the history of the world,—civilization is daily making the most rapid progress, and humanity is triumphing hourly over the last enemies of mankind; but whilst the African excites the compassion of the nation, and engages the attention of the British legislature, the British soldier, their fellow-countryman, the gallant, faithful protector of their liberties, and champion of their honour, is daily exposed to suffer under the abuse of that power with which ignorance or a bad disposition may be armed." "There is no mode of punishment so disgraceful as flogging, and none more inconsistent with the military character, which should be esteemed as the essence of honour and the pride of manhood; but when what should be used but in very extreme cases, as the *ultimum supplicium*, producing the moral death of the criminal, becomes the common penalty for offences in which there is no moral turpitude, or but a petty violation of martial law, the evil requires serious attention." Here he appeals with a proud and exulting recollection to the practice of the regiment in which he began his military life.—"Educated," says he, "in the 15th Light Dragoons, I was early instructed to respect the soldier; that was a corps before which the triangles were never planted;"—meaning the triangles against which men are tied up when they receive the punishment of flogging.—"There," he adds, in the same language of glowing satisfaction, con-

trasting the character of his favourite corps with that debasement which the system of flogging elsewhere engenders,—"There," he exclaims, "each man felt an individual spirit of independence; walked erect, as if conscious of his value as a man and a soldier; where affection for his officer, and pride in his corps, were so blended, that duty became a satisfactory employment, and to acquire, for each new distinction, the chief object of their wishes. With such men every enterprise was to be attempted, which could be executed by courage and devotion, and there was a satisfaction in commanding them which could never have been derived from a system of severity." He proceeds, "There is no maxim more true than that cruelty is generated in cowardice, and that humanity is inseparable from courage. The ingenuity of officers should be exercised to devise a mode of mitigating the punishment, and yet maintaining discipline. If the heart be well disposed, a thousand different methods of treating offences will suggest themselves; but to prescribe positive penalties for breaches of duty is impossible, since no two cases are ever exactly alike. Unfortunately, many officers will not give themselves the trouble to consider how they can be merciful; and if a return was published of all regimental punishments within the last two years, the number would be as much a subject of astonishment as regret. I knew a colonel of Irish militia, happily now dead, who flogged, in one day, seventy of his men, and I believe punished several more the next morning; but, notwithstanding this extensive correction, the regiment was by no means improved. Corporal punishments never yet reformed a corps; but they have totally ruined many a man who would have proved, under milder treatment, a meritorious soldier. They break the spirit, without amending the disposition; whilst the lash strips the back, despair writhes round the heart, and the miserable culprit, viewing himself as fallen below the rank

of his fellow-species, can no longer attempt the recovery of his station in society. Can the brave man, and he endowed with any generosity of feeling, forget the mortifying vile condition in which he was exposed? Does not, therefore, the cat-o'-nine-tails defeat the chief object of punishment, and is not a mode of punishment too severe, which for ever degrades and renders abject? Instead of upholding the character of the soldier, as entitled to the respect of the community, this system renders him despicable in his own eyes, and the object of opprobrium in the state, or of mortifying commiseration."

He is now about to touch upon a topic which I admit to be of some delicacy. It is one of the topics introduced into the composition before you: but a man of principle and courage, who feels that he has a grave duty to perform, will not shrink from it, even if it be of a delicate nature, through the fear of having motives imputed to him by which he was never actuated, or lest some foolish persons should accuse him of acting with views by which he was never swayed. Accordingly, Sir Robert Wilson is not deterred from the performance of his duty by such childish apprehensions; and, having gone through all his remarks, of which I have read only a small part, and having eloquently, feelingly, and most forcibly summed it up in the passage I have just quoted, he says, "It is a melancholy truth, that punishments have considerably augmented, that ignorant and fatal notions of discipline have been introduced into the service, subduing all the amiable emotions of human nature. Gentlemen who justly boast the most liberal education in the world, have familiarized themselves to a degree of punishment which characterizes no other nation in Europe." "England" (he adds pursuing the same comparative argument on which so much has this day been said), "England should not be the last nation to adopt humane improvements;" and then, coming to the very

point of comparison which has been felt by the Attorney-General as the most offensive, Sir Robert Wilson says: "France allows of flogging only in her marine; for men confined together on board ship require a peculiar discipline, and the punishment is very different from military severity. The Germans make great criminals run the gauntlet—" thus illustrating the principle that in no country, save and except England alone (to use the words of these defendants), is this mode of punishment by flogging adopted.

Gentlemen, it is not from the writings of this gallant officer alone that I can produce similar passages, though, perhaps, in none could I find language so admirable and so strong as his. I shall trouble you, however, with no more references, excepting to an able publication of another officer, who is an ornament to his profession, and whose name, I dare to say, is well known amongst you; I mean Brigadier-General Stewart, of the 95th regiment, the brother of my Lord Galloway. This work was written while the plans, which I have already mentioned, were in agitation for the improvement of the army; and the object of it is the same with that of Sir Robert Wilson, to show the defects of the present system, and to point out the proper remedies. "Without (he begins) a radical change in our present military system, Britain will certainly not long continue to be either formidable abroad, or secure at home." This radical change in our system is merely that which I have already detailed. He says, after laying down some general remarks, "If this view of the subject be correct, how will the several parts of our present military system be reconciled to common sense, or to any insight into men and things?" He then mentions the chief defects in the system, such as perpetuity of service, and the frequency of corporal punishments; and in discussing the latter subject he says, "No circumstance can mark a want of just discrimination more than the very general recurrence, in

any stage of society, to that description of punishment which, among the same class of men, and with the alteration of the profession alone, bears the stamp of infamy in the estimate of every man. The frequent infliction of corporal punishment in our armies, tends strongly to debase the minds and destroy the high spirit of the soldiery. It renders a system of increasing rigour necessary; it deprives discipline of honour, and destroys the subordination of the heart, which can alone add voluntary zeal to the cold obligations of duty. Soldiers of naturally correct minds, having been once punished corporally, generally become negligent and unworthy of any confidence. Discipline requires the intervention of strong acts to maintain it, and to impress it on vulgar minds; punishment may be formidable, but must not be familiar; generosity or solemn severity must at times be equally recurred to; pardon or death have been resorted to with equal success; but the perpetual recurrence to the infliction of infamy on a soldier by the punishment of flogging, is one of the most mistaken modes for enforcing discipline which can be conceived." And then, alluding to the same delicate topic of comparison, which, somehow or other, it does appear no man can write on this subject without introducing,—I mean the comparative state of the enemy's discipline and our own,—he says: "In the French army a soldier is often shot, but he rarely receives corporal punishment; and in no other service is discipline preserved on truer principles." Gentlemen, I like not the custom, which is too prevalent with some men, of being over-prone to praise the enemy, of having no eyes for the merits and advantages of their own country, and only feeling gratified when they can find food for censure at home, while abroad all is praiseworthy and perfect. I love not this propensity to make such a comparison; however it is sometimes absolutely necessary, though it may always be liable to abuse: but in an officer like General

Stewart or Sir Robert Wilson, it has the merit not only of being applicable to the argument, but in those men who have fought against that enemy, and who, in spite of his superior system, have beaten him (as beat him we always do, when we meet him on anything like fair terms), in such men it has the grace of liberality as well as the value of truth; and it not only adds a powerful reason to their own, but shows them to be above little paltry feuds,—shows them combating with a manly hostility,—and proves that the way in which they choose to fight an enemy, is confronting him like soldiers in the field, and not effeminately railing at him. In the French army, General Stewart says, a soldier is often shot, but he rarely receives corporal punishment, and "in no other service," he adds, "is discipline preserved on truer principles." "I know the service," he means to say: "I have had occasion to see it in practice,—I have served with Austrians, Prussians, and Swedes,—but in no service is discipline preserved on truer principles than in the French; and therefore it is that I quote the example of the French, whose discipline is preserved on principles too true, alas! for our ill-fated allies. It is therefore I quote the French army, and in order to show that the change I recommend in our own, is necessary for the perfection of its discipline, and to save us from the fate of those allies."

Such are the opinions of these gallant officers, but whether they are right or wrong I care not,—such are the opinions of other brave and experienced officers, expressed in language similar to that which you have heard; in such terms as they deemed proper for supporting the opinions they held. Do I mean to argue, because these officers have published what is unfit and improper, that therefore the defendants have a right to do the same? Am I foolish enough? Do I know so little of the respect due to your understandings? Am I so little aware of the interruption I should

instantly and justly meet from the learned and noble judge, who presides at this trial, were I to attempt urging such a topic as this? Do I really dare to advance what would amount to no less than the absurd, the insane proposition, that if one man has published a libel, another man may do so too? On the contrary, my whole argument is at an end, if these are libels. If General Stewart and Sir Robert Wilson have exceeded the bounds of propriety, and those passages which I have read from their works are libels, their publication by them would form not only no excuse for the defendants, but would be an aggravation of their fault, if I their council, had ventured, in defending one libel, to bring other libels before you. But it is because I hold, and you must too, that those officers are incapable of a libellous intention; because you well know that those officers, when they wrote in such terms, were incapable of the design of sowing dissension among the troops, and deterring men from entering into the army; it is because you know that, of all the men in this Court and in this nation, there are no two persons more enthusiastically attached to the country and the service; it is because you know as well as I do, that no two men in England are more entirely devoted to the interests of the British army, or bear a deadlier hate to all its enemies; it is because you must feel that there is not the shadow of a pretext for charging them with such wicked intentions, or for accusing them of a libellous publication; it is for this reason, and for this alone, that I have laid before you what they have thought and written upon the subject matter of the composition which you are now trying. I entertain no small confidence that you are prepared to go along with me, in my conclusion, that, if they could publish such things, without the possibility of any man accusing them of libel, the mere fact of these things being published is no evidence of a wicked or seditious intention: that you are, therefore, prepared to view the

publication on its own merits; and, considering how others, who could not by possibility be accused of improper motives, have treated the same subject, you will feel it your duty to acquit the defendants of evil intention, when they shall appear to have handled it in a similar manner.

Gentlemen, I entreat you now to look a little towards the composition itself on which the Attorney-General has commented so amply. With respect to the motto, which is taken from an eloquent address of his to a jury upon a former occasion, there is nothing in that which makes it necessary for me to detain you. In whatever way these words may have originally been spoken, and however the context may have qualified them, even if they bore originally a meaning quite different from that which in their insulated state they now appear to have; I apprehend, that a person assuming, as is the fashion of the day, a quotation from the words of another as a text, may fairly take the passage in whatever sense suits his own purpose. Such at least has been the practice, certainly, from the time of the *Spectator*—I believe much earlier; nor can the compliance with this custom prove any intention good or bad. A writer takes the words which he finds best adapted to serve for a text, and makes them his motto: some take a line, and even twist it to another meaning, a sense quite opposite to its original signification; it is the most common device, a mere matter of taste and ornament, and is every day practised.

Let us now come to the introduction, which follows the text or motto. The writer, meaning to discuss the subject of military punishments, and wishing to offer his observations on the system of punishment adopted in our army, in order to lay a ground-work for his argument, and in case any reader should say, "You have no facts to produce; this is all mere declamation" —for the purpose of securing such a ground-work of fact as should anticipate and remove this objection; to

show that these military punishments were actually inflicted in various instances, and to prove from those instances the necessity of entering into the inquiry; he states fairly and candidly several cases of the punishments which he is going to comment upon. He says, "Corporal Curtis was sentenced to receive one thousand lashes, but, after receiving two hundred, was on his own petition permitted to volunteer into a regiment on foreign service." Enough would it have been for the argument to have said, that Corporal Curtis had been sentenced to receive one thousand lashes; but the author owns candidly that on receiving two hundred, the prisoner was allowed, and at his own request, to enter into a regiment on foreign service. Then he mentions the case of William Clifford, a private in the seventh royal veteran battalion, who was lately sentenced to receive one thousand lashes; does he stop there? No, he adds the reason; and the reason turns out to be one which, if anything can justify such a punishment, you will admit would be a justification. He tells candidly, what makes against his own argument; he says it was "for repeatedly striking and kicking his superior officer." He adds, that he underwent part of his sentence, by receiving seven hundred and fifty lashes at Canterbury in presence of the whole garrison. He next mentions another instance of some persons of the 4th regiment of foot, being sentenced to receive two thousand six hundred lashes, and giving the reason, he says, it was "for disrespectful behaviour to their officers." He then states the case of Robert Chilman, a private in the Bearstead and Malling regiment of local militia, who was lately tried, this author tells us, by a court-martial, "for disobedience of orders and mutinous and improper behaviour while the regiment was embodied." His offence he thus sets forth almost as fully as if he was drawing up the charge; nay, I will venture to say, the charge upon which the court-martial proceeded to trial, was not drawn up

more strongly and distinctly. He subjoins to these facts the notice, that his authorities are, the London Newspapers.

Having thus laid the foundation and ground-work of his reasoning, he comments upon the subject in words which, as they have been read twice over, once by the Attorney-General, and once by Mr. Lowten, it is unnecessary for me to repeat; I would only beg of you to observe, that, in the course of his argument, he has by no means departed from the rule of fairness and candour which he had laid down for himself in the outset. He brings forward that which makes against him, as well as that which makes for him; and he qualifies and guards his propositions in a way strongly indicative of the candour and fairness of his motives. After having stated his opinion in warm language, in language such as the subject was calculated to call forth; after having poured out his strong feelings in a vehement manner (and surely you will not say that a man shall feel strongly and not strongly express himself), must he be blamed for expressing himself as these two gallant officers have done, though, perhaps, in language not quite so strong as theirs? Having thus expressed himself, he becomes afraid of his reader falling into the mistaken notion of his meaning, an error which, notwithstanding the warning, it would seem the Attorney-General has really fallen into, the error of supposing that he had been too much inclined to overlook the errors in the French system, and that he who had argued against our discipline, and in favour of the enemy's, might be supposed too generally fond of the latter. Apprehensive of a mistake so injurious to him, and feeling that it was necessary to qualify his observations, in order to protect himself from such a misconception, he first says, "Let it not be supposed that we intend these remarks to excite a vague and indiscriminate sentiment against punishment by military law." You perceive, gentlemen, that before proceeding to

guard his reader against the idea of his general partiality to the French system, he stops for the purpose of correcting another misrepresentation,—another mistake of his meaning,—into which also the Attorney-General has repeatedly been betrayed this day. The writer, fearing lest he should not have guarded his reader, and especially his military reader if he should have one, against the supposition of his being an enemy to military punishment, in the general, states distinctly, that severe punishment is absolutely necessary in the army; and he proceeds to express himself in words which are nearly the same as those used by the Attorney-General, for the purpose of showing that there was something enormous in attacking the system of corporal punishment. The Attorney-General says, he is endeavouring to inflame the subjects of this country against the whole penal code of the army; he is endeavouring to take away the confidence of the soldier in those military regulations which must be enforced, while we have an army at all. All this is mere rhetoric,—exactly so thought the author of this work. He was afraid some person might fall into the same mistake, and accordingly he warns them against this error; he says, "Let it not be supposed that we intend these remarks to excite a vague and indiscriminate sentiment against punishment by military law; no; when it is considered that discipline forms the soul of an army, without which it would at once degenerate into a mob; when the description of persons which compose the body of what is called an army, and the situation in which it is frequently placed, are also taken into account, it will, we are afraid, appear but too evident that the military code must still be kept distinct from the civil, and distinguished by great promptitude and severity. Buonaparte is no favourite of ours, God wot!" Then, with respect to the French mode of punishment and our own, he observes, "It may be said he (Buonaparte) punishes them (his troops) in

some manner. That is very true; he imprisons his refractory troops, occasionally in chains, and in aggravated cases he puts them to death." Is this not dealing fairly with the subject? Is this keeping out of sight everything that makes against his argument, and stating only what makes for it? Is he here mentioning the French military punishments, to prove that we ought to abandon the means of enforcing our military discipline? No! he does not argue so unfairly, so absurdly. His argument did not require it: he states that the French punish their soldiers in a manner which I have no doubt some will think more severe than flogging: he states that Buonaparte punishes his refractory troops with chains, and with the highest species of all human punishment—with death. This is exactly the argument of the defendants, or of the author of this composition; and it is the argument of all those who reprobate the practice of flogging. They contend that he (Buonaparte) does not, and that we ought not to flog soldiers; but that he punishes them with chains or death, and so ought we. They maintain, and many of the first authorities in this country maintain, and always have maintained, that for those offences for which one thousand lashes are inflicted, death itself should be inflicted, but not flogging; that the more severe but more safe and appropriate punishment is to be preferred. The argument is not used out of compassion to the soldier, not for the purpose of taking part with him. He does not tell him who has been guilty of mutiny, "Your back is torn by the lash; you are an injured man, and suffering unmerited hardships; you who have kicked and beat your officer, ought not to be punished in so cruel a way, as by being tied to the triangles and lacerated with whipcords;"—this is not what he tells the soldier. No! He says, "The punishment you receive is an improper punishment altogether, because it is hurtful to military discipline, —because it wounds the feelings of the soldier, and

degrades him in his own estimation,—because it ruins irretrievably many a man who might be reclaimed from irregular courses, and saves the life only, but without retaining the worth of him who, like you, has committed the highest offences; therefore such a punishment is in no instance fit to be inflicted. But do not think you are to get off without the severest punishment, you who have been guilty of mutiny: do not think that military punishments ought not to be more severe than the civil; my opinion, indeed, is, that you ought not to be flogged, because there are reasons against that practice, wholly independent of any regard for you; but then I think that you ought for your offences to be confined in chains, or put to death." It is not tenderness towards the soldier; it is not holding up his grievances as an excuse for mutiny; it is a doctrine which has for its object the honour of all soldiers: it proceeds from a love of the military service; it is calculated to raise that service, and by raising it, to promote the good of the country. These are the motives, these are the views of this train of argument. Instead of holding out the idle dream, that the soldier ought not to be punished, he addresses himself to the subject, solely on account of the system of which the soldier forms a part; solely on account of the effects which his punishment may produce on the army: but as to the individual soldier himself, he holds the very language of severity and discipline; he tells him in pretty plain, nay, in somewhat harsh terms, that strictness is necessary in his case, and that he must be treated far more rigorously than any other class of the community. Furthermore, he tells him, that a severer punishment than even flogging, is requisite, and that instead of being scourged, he ought to be imprisoned for life, or shot. He then goes to another topic, but it is almost unnecessary to proceed farther with the qualifications of his opinion: he says, "We despise and detest those who would tell us, that there is as

much liberty now enjoyed in France as there is left in this country." Is this the argument,—is this the language of a person who would hold up to admiration what our enemies do, and fix the eye of blame only on what happens at home? Is this the argument from which we are to infer, that he looked across the Channel to pry out the blessings enjoyed by our enemies in order to stir up discontent among ourselves? If such had been his intention, was this vehement expression of contemptuous indignation against those who are over-forward to praise the French, likely to accomplish such a purpose? Surely such expressions were more than his argument required. He goes out of his way to reprobate men of unpatriotic feelings; men whose hearts are warm towards the enemies of their country. It was the gist of his argument to show that the French discipline being superior to ours (as in the opinion of Sir Robert Wilson and General Stewart, it appears to be), we ought to seek the amendment of our system by availing ourselves of the example of our enemies: but he says, "Do not believe I am against punishing the soldier because I am averse to flogging him, or that I belong to the description of persons who can see nothing in the conduct of our enemies deserving censure." On the contrary, he warns the soldier that rigour of discipline is his lot, and that he must expect the severest infliction of punishment which man can endure; and he purposely, though I admit unnecessarily for his argument, inveighs against too indiscriminate an admiration of France, in words which I shall repeat, because they are important, and because my learned friend passed hastily over them: "We despise and detest those who would tell us, that there is as much liberty now enjoyed in France as there is left in this country."

Such, gentlemen, is the publication on which you are called upon to decide. It is an argument, qualified by restrictions and limitations, upon an important

branch of the military policy of this country. In pursuing this argument, it was necessary the writer should choose a topic liable to misconception,—the comparison of the system of the French army with our own. His argument could not be conducted without a reference to this point. But, to preserve it from abuse, he guards it by the passage I have read, and by others which are to be found in the body of the composition. And he is now brought before you for a libel, on this single ground, that he has chosen such topics as the conduct of his argument obviously required; and used such language as the expression of his opinions naturally called forth.

Gentlemen, I pray you not to be led away by any appearance of warmth, or even of violence, which you may think you perceive, merely upon cursorily looking over this composition. I pray you to consider the things I have been stating to you, when you are reflecting upon the able and eloquent remarks of the Attorney-General; more especially upon the observations which he directed to the peculiarly delicate and invidious topics necessarily involved in the argument. The writer might have used these topics without the qualifications, and still I should not have been afraid for his case. But he has not so used them; he has not exceeded the bounds which anything that deserves the name of free discussion must allow him. He has touched, and only touched, those points which it was absolutely impossible to pass over, if he wished to trace the scope of his opinions; and those points he had a right to touch, nay, to dwell upon (which he has not done), unless you are prepared to say that free discussion means this,—that I shall have the choice of my opinion, but not of the arguments whereby I may support and enforce it,—or that I shall have the choice of my topics, but must only choose such as my adversary pleases to select for me;—unless you are prepared to say that that is a full permission freely to

discuss public measures, which prescribes not merely the topics by which my sentiments are to be maintained, but also the language in which my feelings are to be conveyed. If there is a difference in the importance of different subjects—if one person naturally feels more strongly than another upon the same matter,—if there are some subjects on which all men who, in point of animation are above the level of a stock or a stone, do feel warmly;—have they not a right to express themselves in proportion to the interest which the question naturally possesses, and to the strength of the feelings it excites in them? If they have no such power as this, to what, I demand, amounts the boasted privilege? It is the free privilege of a fettered discussion; it is the unrestrained choice of topics which another selects; it is the liberty of an enslaved press; it is the native vigour of impotent argument. The grant is not qualified, but resumed by the conditions. The rule is eaten up with the exceptions; and he who gives you such a boon, and calls it a privilege or a franchise, either has very little knowledge of the language he uses, or but a slight regard for the understandings of those whom he addresses. I say, that in the work before you, no individual instance of cruelty has been selected for exaggerated description, or even for remark; no specific facts are commented on, no statements alluded to in detail. Scarcely are the abuses of the system pointed out; though the eloquent author might well have urged them as arguments against a system thus open to abuse. It is the system itself which is impeached in the mass; it is the general policy of that system which is called in question; and it is an essential part of the argument, a part necessary for the prosecution of the inquiry, to state that the system itself leads to cruelty, and that cruelty cannot fail to be exercised under it. This is among the most important of the arguments by which the subject must needs be discussed: and if he has a right to hold, and

publicly to state an opinion on this subject at all, he has not only a right, but it is his duty to enter into this argument.

But then the Attorney-General maintains, that it tends to excite mutiny, and to deter persons from enlisting in the army. Gentlemen, I say that this fear is chimerical; and I now desire you to lay out of your view everything I have stated from the high authorities whose sentiments you have heard. I request you to leave out of your sight the former arguments urged by me, that you cannot impute any evil intention to their books, because you cannot to their authors. I ask you to consider, whether there is any visible limit to the argument which the Attorney-General has pressed on you, when he asserts that the tendency of this publication is, to excite disaffection among the soldiers, and to prevent the recruiting of the army? I ask you whether any one of those points which are the most frequently discussed, at all times, and by persons of every rank, can in any conceivable way be discussed, if we are liable to be told, that in arguing, or in remarking upon them, our arguments have a tendency to excite sedition and revolt? What are the most ordinary of all political topics? Taxes, wars, expeditions. If a tax is imposed, which in my conscience I believe to be fraught with injustice in its principle, to originate in the most perverse impolicy, and to produce the most galling oppression in the manner of its collection; can I speak otherwise than severely? or, however moderately I may express myself, can I speak otherwise than most unfavourably of it, even after the legislature has sanctioned it, and laid it on the country? And yet the Attorney-General may say, "What are you about? You are exciting the people to resistance; you are touching the multitude in the tenderest point, and stirring them up to revolt against the tax-gatherer, by persuading them that the collection of the imposts is cruel and oppressive, and that the

government has acted unwisely or unjustly, in laying such burthens on the people." Is it rebellious to speak one's sentiments of the expeditions sent from this country? If a man should say, "You are despatching our gallant troops to leave their bones in those charnel-houses, as Sir Robert Wilson calls them, which you are constantly purchasing in the West Indies with the best blood of England; you are sending forth your armies to meet, not the troops of the enemy, but the yellow fever; you are pouring your whole forces into Walcheren, to assail, not the might of France, not the iron walls of Flanders, but the pestilential vapours of her marshes."—Such things have been uttered again and again, from one end of the empire to the other, not merely in the hearing of the country, but in the hearing of the troops themselves; but did any man ever dream of sedition, or a wish to excite mutiny being imputed to those millions by whom such remarks have been urged? Do those persons of exalted rank, and of all ranks (for we all have a right to discuss such measures, as well as the statesmen who rule us); do those men within the walls of Parliament, and without its walls (for surely all have equally the right of political discussion, whether they have privilege of Parliament or no); do all who thus treat these subjects purposely mean to excite sedition? Did any one ever think of imputing to the arguments of persons discussing in this way these matters of first-rate national importance, that their remarks had a tendency to produce revolt, and excite the soldiers to mutiny?

There is another subject of discussion which instantly strikes one; it is suggested to you immediately by the passage which I formerly read from Sir Robert Wilson; indeed he introduces it in lamenting the treatment of the soldier. I am referring to those signal, and I rejoice to say, successful efforts made by our best statesmen of all parties, on behalf of the West

Indian slaves. Could there be a more delicate topic than this? a more dangerous subject of eloquence or description? Can the imagination of man picture one that ought to be more cautiously, more scrupulously handled, if this doctrine is to prevail, that no person must publish what any person may suspect of having a tendency to excite discontent and rebellion? And yet were not the speeches of Mr. Pitt (to take but one example), from beginning to end, pictures of the horrors of West Indian slavery? And did any one in the utmost heat of the controversy, or in the other contentions of party or personal animosity, ever think of accusing that celebrated statesman of a design to raise discontent, or shake the tranquillity of the colonies, although he was addressing his vehement and impassioned oratory to islands where the oppressed blacks were to the tyrannizing whites, as the whole population compared with a few hundred individuals scattered over the West Indian seas? I say, if this argument is good for anything, it is good for all; and if it proves that we have no right to discuss this subject, it proves that we have no right to discuss any other which can interest the feelings of mankind.

But I dare say, that one circumstance will have struck you, upon hearing the eloquent address of my learned friend. I think you must have been struck with something which he would fain have kept out of sight. He forgot to tell you that no discontent had been perceived, that no revolt had taken place, that no fears of mutiny had arisen—that, in short, no man dreamt of any sort of danger—from the infliction of the punishment itself! The men therefore are to see their comrades tied up, and to behold the flesh stripped off from their bodies, aye, bared to the bone! They are to see the very ribs and bones from which the mangled flesh has been scourged away—without a sentiment of discontent, without one feeling of horror, without any emotion but that of tranquil satisfaction? And all this

the by-standers are also to witness, without the smallest risk of thinking twice, after such a scene, whether they shall enter into such a service! There are no fears entertained of exciting dissatisfaction among the soldiers themselves by the sight of their comrade thus treated: there is, it seems, no danger of begetting a disinclination to enlist among the surrounding peasantry, the whole fund from which the resources for recruiting your army are derived! All this, you say, is a chimerical fear; perhaps it is: I think quite otherwise; but be it even so: let their eyes devour such sights, let their ears be filled with the cries of their suffering comrades; all is safe; there is no chance of their being moved; no complaint, no indignation, not the slightest emotion of pity, or blame, or disgust, or indignation can reach their hearts from the spectacle before them. But have a care how, at a distance from the scene, and long after its horrors have closed, you say one word upon the subject! See that you do not describe these things (we have not described them); take care how you comment upon them (we have not commented upon them); beware of alluding to what has been enacting (we have scarcely touched any one individual scene); but above all, take care how you say a word on the general question of the policy of the system; because, if you should attempt to express your opinions upon that subject, a single word of argument—one accidental remark—will rouse the whole army into open revolt! The very persons upon whom the flogging was inflicted, who were not to be excited to discontent at the torture and disgrace of their sufferings; they will rebel at once, if you say a word upon the policy of such punishments. Take no precautions for concealing such sights from those whom you would entice into the service; do not stop up their ears while the air rings with the lash; let them read the horrors of the spectacle in the faces of those who have endured it. Such things cannot move a man: but description, remark,

commentary, argument, who can hear without instantaneous rebellion?

Gentlemen, I think I have answered the argument of the Attorney-General upon the dangers of such discussions; and in answering it, I have removed the essential part of the Information, without which this prosecution cannot be sustained; I mean the allegation of evil, malicious, and seditious intention, on the part of the author and publisher of the work. I have done,—I will detain you no longer: even if I could, I would not go farther into the case. The whole composition is before you. The question which you are to try, as far as I am able to bring it before you, is also submitted to you; and that question is, whether, on the most important and most interesting subjects, an Englishman still has the privilege of expressing himself as his feelings and his opinions dictate?

CASE OF

JOHN DRAKARD.

MARCH 13, 1811.

MAY IT PLEASE YOUR LORDSHIP,—GENTLEMEN OF THE JURY,—You have all of you listened with that attention which the importance of the trial demands, to the very able and ingenious opening of the counsel for the prosecution; and you have heard the various comments which he deemed necessary to support his case, upon the alleged meaning which they have been pleased to impute, and on the various tendencies they have ascribed to the publication whose merits you are to try. I confess I was struck in various parts of that learned gentleman's speech, with the remarkable ingenuity required to twist and press into his service the different passages of the composition on which he commented; and although from knowing as I do, the context of those passages, with which, however, you were not made acquainted; and from knowing, as many of you may, the character of the person accused; and from having besides a little knowledge of the general question of military policy; I had no doubt that the learned counsel would fail to make out the intention which he has imputed to the defendant's publication; yet I am ready to admit, that everything which ingenuity could accomplish in this way he has done.

I shall not, gentlemen, follow the learned counsel through the different parts of his speech; but in conformity to my own wishes, and in compliance with the

positive injunctions of the defendant, I shall attempt to lay before you the composition itself, and to make for him a plain, a candid, and a downright defence. Even if I had the same power of twisting and perverting passages in a direction favourable to my client, which my learned friend has shown in torturing them against him, I am precluded from using it, not merely by the instructions I have received, but also by my own intimate persuasion that such a line of conduct is far from necessary,—that it would be even hurtful to my case.

For the same reason, I shall abstain from following another example set me by the learned counsel for the prosecution. He alluded, and that pointedly, to a case distantly hinted at in this publication,—that of Cobbett, who was convicted by a jury of publishing a libel; my learned friend took care to remind you of this circumstance, and from a line or two of the publication which you are now to try, he inferred that the subject of that libel was connected with the subject of military punishment. Perhaps, gentlemen, I might with equal justice, and even with better reason, allude to another case more directly connected with the one now in our view. Were I so disposed, I might go out of my way, and leave the merits of the present question; I might find no difficulty, since the example has been set me by my learned friend, and his conduct would justify me should I follow it,—in calling your attention to a case of libel more resembling the present; a case which was very recently tried, but in which a conviction was not obtained. If I were so disposed, I might refer you to a case, in which twelve honest men, unbiassed by any interest, determined that the great bulk of the present publication is not libellous nor wicked. But I will not avail myself of this advantage; I will rather suffer the experiment to be tried, in the person of this defendant, of the uniformity of juries; whether that which has been shown by a judicial decision to be innocent at Westminster can be adjudged guilty at Lincoln. I

might put it to you whether the intentions of this defendant can be so wicked as they have been represented by my learned friend, when twelve upright men in another court have held his publication to be not only lawful but innocent,—have solemnly pronounced it to be no libel at all. But, gentlemen, I will waive all these advantages in the outset, and confine your attention exclusively to that which is stated to be the evil of this publication. I beg you not only to lay out of your view the case of Cobbett, who was tried for a libel that has no possible connection with the present case, but I will also ask you to lay out of your view the acquittal of the Hunts, who have been tried for publishing at least three-fourths, and that which is called the most obnoxious part, of the contents of what you are now to try. All this I desire you to lay out of your view. I beg you to confine your attention solely to the merits of this newspaper; and if you shall be of opinion, after I have gone through the publication much less particularly than my learned friend, and without any of his ingenious, and, he must pardon me if I say, his sophistical comments; if, after collecting the defendant's intentions, from comparing the different parts of his dissertation, you should be of opinion that he has wished fairly to discuss a question of great importance and interest to the country; that in discussing this question he has not merely propounded his arguments, but also given vent to those feelings which are utterly inseparable from the consideration of his subject; if, in doing so, he has only used the right and privilege which all men in this free country possess, of discussing and investigating every subject, and of calling to account the rulers of the country (which indeed he has not done); if, in discussing the manner in which our rulers, not of the present day only, but of past times also, have conducted themselves, he has only exercised an unquestionable and unquestioned right,—the right of delivering his sentiments and of enforcing

them; if this shall appear, you will be instructed by a higher authority than mine, and it will, I am sure, be your pleasure, as it will be your duty, to pronounce the defendant not guilty.

This, gentlemen, then, is the question you have to try; and that you may be enabled to decide it, I shall have little more to do than to request your attention to the publication itself. I do not wish you to forget the comments of the counsel for the prosecution; but I shall take the liberty of laying the defendant's discussion before you more fairly and impartially than it has already been laid before you by that learned gentleman. It was the intention of the writer to take up a subject of high importance,—a question universally interesting,—a case that has often been alluded to by different writers. Gentlemen, he had a right to form his opinion upon this question; he had a right to form it, although it happened to be inconsistent with the policy of the country. I do not say that his is a just opinion; that it is a correct opinion; but it happens to be his opinion, and he has a right to maintain it. If he thinks that the practice which he reprobates is detrimental to the service of this country; that it produces reluctance among the inhabitants to enter into the military state; nay, that it has the worst effect on the country itself; I have yet to learn that there is any guilt in entertaining such an opinion—I have yet to learn that it is criminal to promulgate such an opinion on such a subject. And if, in support of his sentiments, he resorts to topics of various descriptions, I shall hold him innocent for so doing, until I am informed from good authority, that a person may hold an opinion, but that he must be mute upon the subject of it; that he may see the question only in a certain point of view; that he must look at it through a certain particular medium; that he must measure the strength of his argument by a scale which my learned friend alone seems to have in his possession,—till I learn all this

from a higher authority than the learned counsel. I shall continue to hold the doctrine that it is the privilege of a subject of this country, to promulgate such fair and honest arguments as appear to him best adapted to enforce his fair and honest sentiments.

Gentlemen, how does the publisher of this piece proceed to declare and maintain what he believes? He begins, "ONE THOUSAND LASHES." This is a short title, as it were, to the article. It is headed in capital letters, in the same way as other articles in the newspapers are usually headed. If you will look into this very paper, gentlemen, you will find that other articles begin in the same way. Here is "SPAIN AND PORTUGAL," and another article has "FRANCE" for its head, and another "MISCELLANEOUS NEWS." Then follows a motto, or text, which the author had chosen to give force to what was to follow; and, according to the practice of newspaper writers, he took it from the speech of a celebrated law officer, choosing to quote him, because he differed from his opinion. Meaning, therefore, to argue with that officer, he could not have done better than seize hold of a passage from his speech; and he then proceeds to give a statement of the facts and sentiments which are connected with that passage; using various arguments, sometimes even a pleasantry or two, as is no uncommon method when we wish to come at the truth. He then states various instances of the punishment which he condemns, because he is about to discuss, or rather to shew the impolicy of the particular mode in which military punishments are now so frequently inflicted. The learned counsel for the prosecution told you, that in order to obtain this collection of facts, the defendant had ransacked all the newspapers. Unquestionably, gentlemen, he had ransacked the papers; and if he had not brought together a statement of facts,—if he had not in this way laid the ground-work for what was to follow,—what would the ingenuity of that learned gen-

tleman have suggested? You would have been told that all the defendant had said was mere vindictive turbulent clamour against a practice long received, yet but seldom put in force, and that the author had found it impossible to produce any instances of the infliction of that punishment. The author was aware that ingenious men would start this objection against him, and that it would have been a fair one,—therefore he gets rid of it by laying the groundwork of his argument in a statement of facts. The purport of what he has done and said is then simply this,—"Do not think that what I am writing is a mere chimera. You have the real existence of it before your eyes. It is taking place every day."

Gentlemen, the manner in which he states these facts deserves particular attention. Had it been his desire to put the thing in the worst point of view, in order to support his opinion, he would not have written as he has done; for when a man is heated by his subject, and is looking out for arguments, he seldom finds those that are unfavourable to his opinion; if they are of that complexion, he turns his eyes away from them; and I might refer you to the speech of the learned counsel for the prosecution, as a proof of this. That learned gentleman very carefully turned his eyes off from those passages which would have given a different character to the piece from that which he imputes to it; or if he did not entirely omit them, he read them over to you in a low tone of voice, which was certainly not the general pitch of his speech. It does appear, then, that this gentleman is not without the very fault which he charges, but charges wrongfully, upon my client. Had the defendant been anxious to impress the opinion upon his readers, that the punishments which he instances were inflicted without cause; had he wished to raise forcibly the indignation of his readers against such punishments,—punishments which he thinks injurious to the army,—he would not

have dwelt as he has done on the faults of the offenders. But he has not taken such an advantage of the question he was agitating as my friend has taken of him. He has told the circumstances which made against the offenders, and has, in so doing, offered a justification of the punishment. In the first instance, it must be notorious to all of you, gentlemen, that in the case of Corporal Curtis, the world was ignorant of the transaction, but that rumours of so unfriendly a kind were abroad, as to induce a patriotic and honourable member to bring the case before the House of Commons. He conceived its circumstances to be different from what they really were, and that great blame attached to the persons who sat on the court-martial. Now, might not the writer of this article have availed himself of the ignorance of the people, in order to give point to his case, and a false interpretation to the conduct of the court-martial? But he does nothing of the kind; for being ignorant of the true state of the case, he avows his ignorance. The case was unknown till Colonel Wardle brought it before Parliament nine or ten days ago. The defendant could not, therefore, have told you why the sentence was passed upon Curtis, but he could have told you the rumours that were then in circulation, and which now appear to have been ill-founded, but which were then so feasible, as to have become the subject of a motion in Parliament. This case, then, the defendant left on its own merits; in all the other cases he has told you distinctly the occasion that gave rise to the punishment, and so explicitly, that my learned friend, with his usual ingenuity, was desirous of founding a charge upon his statement. Of Clifford he observes, that he was sentenced to receive a thousand lashes, for repeatedly striking and kicking his superior officer. "One thousand lashes!" For what? Might he not have stopped here? Had he been disposed to arraign the sentence of the court-martial by any remark other than candid

and fair, he would have stopped here, and not advanced to mention the occasion of the punishment; but, by the mention of it, he fritters away the whole force of the case that my learned friend would fain make out. He says "for kicking and striking his officer;" and for such an offence no punishment can be too severe, although a particular mode of punishment may be improper. In one point of view, the author loses by his statement, and undoes what he had been attempting to do; but the subject is taken up again in the course of his discussion, and then he tells you, with apparent reasonableness, that whatever the demerit of the offender may be, though he may deserve death, though he may deserve worse than death, yet the punishment appointed for him is wrong in point of policy, though not in point of justice. Other cases also he mentions in his motto, where the men had been found guilty of all the charges against them; and, in the last case, instead of stopping short when he mentions the sentence, which would have aggravated the statement, and left the presumption that it had been executed, he fairly tells you that the lashes were not inflicted, and that the man was marched to Chatham. It appears, then, that these instances are necessarily given as the groundwork of the discussion, and are given in the fairest manner.

Then comes the discussion itself. I shall not trouble you with again reading much of it, because it has been repeated to you so often. On the perusal you will find that the writer supports his opinion by arguments which are present to the mind of every man who has considered the subject. If they were not so now, they might be by a little recollection, because they have been so forcibly urged out of Parliament and in Parliament, where many members have eloquently spoken against that mode of punishment which prevails in our army, and, it is a melancholy truth, in our army alone. The statement made by this writer is copied, but not

copied closely, after that which has proceeded from the pens of some of the ablest officers that have adorned our service. It is an echo, but not a full one, of what has been repeatedly said in the House of Commons. His arguments have been used over and over again, and are, in fact, embodied in the system which the late administration carried into practice. The arguments then used are now employed by the writer, but in a mitigated form, in support of an opinion which he deems it incumbent on him to state strongly to his countrymen. These arguments are various, and are not only applicable to his discussion, but I might state that his discussion could not have been carried on without them. Some of them may be dangerous, but the subject required that the danger should be encountered. One of them is founded on a comparison of ours with the French service. Gentlemen, it is true, and it is a deplorable truth, that the latter is one of the first services in the world in point of discipline, in point of valour, and of everything that constitutes a great army. Next to our army, there is none in the world that has gained so many victories, that has been so constantly sure of success; none in which the discipline is so well observed, and where more is made out of the discipline. This is a deplorable fact, and every European power but our own has suffered grievously from its truth. Now, was it not natural, nay, necessary to the argument of this writer, that he should appeal to the French discipline, and ask in the outset, if such punishments as he condemns are inflicted by it? If he had not said that in the French army the practice of flogging is unknown, nothing could have made up for so great and obvious a deficiency in his statement. Would not the answer have been ready in the mouth of every one, "Do not other armies flog as well as we?" Would any one who approves of flogging in our army, and is capable of reading two lines, read thus far, and not stop to exclaim, "Ours is not the only army that flogs

its soldiers. France does the same, and a great deal worse; it is a necessary measure; it is the lot of a soldier; he must submit to it; there is no arguing against it." This would have been the answer of all the military men, and of all others who are favourable to the practice.

After the writer of this discourse had introduced his statement, aware that it was of a delicate nature, that he had got upon dangerous ground, and that his doctrine might be abused, he limits his assertions by the plainest qualifications. "Here," said he, "I enter my protest against any unfair deduction from what I have advanced;"—and if anything surprised me more than the rest in the speech of my learned friend, it was the manner in which he passed over the limitations of the writer. I shall not go through the whole of them, but will give you a specimen or two. He says, "Let it not be supposed that we intend these remarks to excite a vague and indiscriminating sentiment against punishment by military law; no; when it is considered that discipline forms the soul of an army, without which it would at once degenerate into a mob—when the description of persons which compose the body of what is called an army, and the situations in which it is frequently placed, are also taken into account, it will, we are afraid, appear but too evident, that the military code must still be kept distinct from the civil, and distinguished by greater promptitude and severity."

Thus it is that he vindicates himself, and I should have thought he had protected himself from misrepresentation, had I not heard the remarks of the learned counsel, who, with his usual ingenuity, twisted against him the whole of his argument respecting the hardships to which the soldier is exposed. What could he by this proviso have thought to protect himself against, if not against the insinuation that he was exciting the soldiers to mutiny, by telling them that they are hardly dealt by in being placed under military law, in having

no trial by jury, and in being subject to such punishments as are known in our army alone? He had this in his eye; he was aware of the probability of the charge: and to protect himself from it, he protests in plain terms against such a construction being put upon his assertions.

In like manner, he was aware of a certain class of men ever ready to cry out, that he was one of those persons who are over officious in promoting the wishes of the enemy, who are always dissatisfied with what is done at home, who love nothing but what is French, and who are fond of raising a comparison, that they may exhibit French customs in a favourable light. In order to caution his readers against such a construction of his words, on the one hand, and to guard them, on the other, against entertaining such wrong, such un-English sentiments, he proceeds in the words I shall now read to you. "Buonaparte is no favourite of ours, God wot! But if we were to balance accounts with him on this particular head, let us see how matters will stand." He might have appealed to his general conduct since he edited this newspaper; he might have appealed to the bold and manly tone with which he has frequently guarded his readers against the designs and character of Buonaparte; but not satisfied with this, he says explicitly, "Do not think I am holding up the enemy to your approbation; it is upon this one subject, and on this one alone, that I am of opinion there is not so great a difference against his, and in favour of our system." This is the sum and substance of his argument; and this it is both loyal and laudable in him to maintain. Had he been the evil-minded, seditious, libellous person he is described to be, would he have taken occasion to state this? Had he been disposed to hold up Buonaparte's conduct to the admiration of the soldiers, would he, in the passage which I am now going to read to you, have dwelt unnecessarily on the severities of the French discipline? Alluding to the French

ruler's treatment of his soldiers, he observes, "It may be said, that he punishes them in some manner,—that is very true; he imprisons his refractory troops, occasionally in chains, and in aggravated cases he puts them to death." Need the writer have told his readers all this? Might he not have stopped when he had said that it was true the French soldier was punished in some manner? Need he have particularized the awful punishments which are inflicted upon that soldier in proportion to his crime? He does, in fact, mention punishments existing under the French discipline, which, in the opinion of the majority, will, I am afraid, appear more severe than flogging. Although it may be his idea that flogging is worse than death, yet I believe, were we to poll the country round, we should find but few who would not rather take the punishment of the lash than be sent out to be shot. It may be very well in talk to give the preference to death, but if it come to the point, I believe that there are but few men, nay, but few soldiers, who would not gladly commute it for a flogging. How, then, can it be said of this writer, that he holds up to admiration the system of Buonaparte? Not content with stating that he punishes his troops in some manner, he must add, and unnecessarily for his argument, that he imprisons them in chains, and puts them to death; that is to say, he inflicts upon them the most awful of human punishments.

One would have thought, gentlemen, that this might have been enough to vindicate the writer's intentions, and save him from misrepresentation. Even supposing he had no other readers than soldiers, one would have thought that he had taken precaution enough to prevent mistakes; but he adds another passage, which puts his intentions beyond all doubt, "We despise and detest those who would tell us that there is as much freedom now enjoyed by France as there is left in this country." This, gentlemen, I will read again,

because it was hurried over by the learned counsel. "We despise and detest those who would tell us that there is as much liberty now enjoyed in France as there is left in this country. We give all credit to the wishes of some of our great men, yet while anything remains to us in the shape of free discussion, it is impossible that we can sink into the abject slavery in which the French people are plunged." Gentlemen, can this writer be called a favourer of France? Could stronger language against the system of the French government have been used? He speaks of the "abject slavery" in which the French people are plunged; and he adds in the same strain, and indeed as a very natural consequence, "we do not envy the general condition of French subjects." There are many other passages in this publication, the general purport of which is, that if ever a man had a strong opinion against the character and measures of the ruler of France, at the same time thinking highly of his military discipline,—an opinion which many of our greatest men have held equally and conscientiously—if ever a man sent such an opinion forth to the world, guarded by explanation, and coupled with undeniable facts to support and illustrate it,—it is the person on whose conduct you are now to pronounce your judgment.

With respect to the passage in the middle of this publication, on which much stress has been laid by the counsel for the prosecution, because it was not included in the article for publishing which the Hunts were tried; it contains a statement of the whole of the general arguments usually urged against punishment by flogging, as applied to the case of the militia force. These arguments have been often discussed; they have been heard from the mouth of Mr. Windham, and from his time downwards; and it has been usually admitted, that whatever may be said for the punishment of flogging in the line, it is peculiarly inapplicable to the militia service.

The usual arguments on this subject are forcibly stated by the writer of this piece. In order to illustrate them, he takes an instance, and as the case of Chilman came in his way, he makes use of it. But he guards his readers against supposing that he imputes any blame to the court-martial which tried this man. The writer has no sooner stated a case, and traced the description of it, than he represents it, not as an individual instance, but, "as being the probable effect of the system." His language is this, "Do not imagine that I have held up to your particular notice the court-martial which has thus sentenced Chilman. I do not mean to confine your attention to this particular instance. I take him as I should John-a-Noaks, or any one of the militia who is exposed to the same temptation, who, having been taken from his family by force, after committing certain irregularities, is punished in this dreadful and impolitic way." And by so doing the writer has only followed the example of all the great authorities that have gone before him. Their arguments have turned upon the manner in which the militiamen are taken from their homes, and the hardship of exposing them to this odious and cruel punishment, when it was not their choice to enter or not to enter the service; men who, having been accustomed to live under the privileges of the civil law, are dragged away from its protection. And worse words than these have been applied to the practice by our own authorities. The writer, following the example of others, asks you whether it be fair and humane to treat such men with the same severity for a venial offence committed with a friend and companion, as you inflict on him who enters voluntarily into the service, and him who chooses to abandon for the rigours of the military, the mercies of the civil law?—Whether it is equal and just to visit both these with the same cruel punishment? This is the drift and gist of the writer's argument. This is the way in which he was obliged

to treat his subject; and in this way he has followed the steps of the great characters in our army who have written before him.

Gentlemen, before I go any farther, I will ask you to consider how far we have already got in the case you are trying? It is admitted, indeed it cannot be denied, that an Englishman has a right, which no power on earth can take away from him, to form an opinion. I do not say on the measures and character of our rulers; that right he certainly has, but it is not involved in the present question, for this author has done no such thing; it cannot, I say, be denied, that an Englishman has the privilege of forming his own opinion upon the policy, expediency, and justice of the system that is adopted by his rulers. Having formed this opinion, it cannot be denied that he has a right to promulgate it; and surely it can no more be denied than the two first propositions can be disputed, that he has a right to support his own opinion by his own arguments, and to recommend its adoption in what he may deem the most efficacious manner. And, gentlemen, let me ask you further, if you will withhold from him the privilege of appealing to such topics as suggest themselves to his mind for the enforcement of his opinion, and even for the ornament of his discourse? Are you to tie him down to any particular set of subjects? Will you say to him, "Have your opinion, but take care how you make it known to the world?" Will you say to him, "Support your arguments, but in so doing, you must choose those we shall point out to you; you must steer clear of everything that we do not approve of; you must take care to state nothing forcibly, to argue dully, to support your argument feebly, to illustrate it stupidly?" Is this free discussion? Is this the way in which you would have that which is done in this country compared with that which is done in France? If we have any privilege more important than another, gentlemen, it is, that we may discuss

freely. And is it by this straitened—this confined—this emasculated mode of discussing subjects, that every one of us must be regulated, who, when he looks first at home, and then to France, is so thankful for being born in this country.

But, gentlemen, I should like to ask, if this is to be the extent of privilege which we are to enjoy? I have hitherto merely inquired how far a man may go in support of his arguments by illustrating them; but if I were to go a step farther, I should not much exceed the bounds of my duty. Has not a person in this country a right to express his feelings too? Since when is it,—I would ask, that we may know the era for the purpose of cursing it!—By whom was the change brought about, that we may know the author and execrate his memory—that an Englishman, feeling strongly on interesting subjects, is prevented from strongly and forcibly expressing his feelings? And are the sufferings of British soldiers the only subject from which the feelings of compassion must be excluded? Living as we do in an age when charity has a wide and an undisputed dominion; in an age when we see nothing but monuments of compassionate feeling from one end of the country to the other; in which, not only at home, but as though that was too confined a sphere, we are ransacking foreign climes for new objects of relief; when no land is so remote, no place so secluded, as not to have a claim on our assistance; no people so barbarous or so strange as not to excite our sympathy: is this a period in which we are to be told that our own soldiers may not claim our mercy? Granting that they are not barbarians,—granting that they are not strangers, but are born amongst us, that they are our kinsmen, our friends, inhabiting the same country, and worshipping at the same altars,—granting that far from being unknown to us, we know them by the benefits they have rendered us, and by the feeling that we owe them a debt of gratitude never to

be repaid,—I put it to you, gentlemen, whether we are to exclude them from what we give to all mankind; from the benefit of our feelings and our sympathy; from the scope of that universal law of nature which gives to all the victims of cruelty, however distant, however estranged, a home, a settlement, in every compassionate heart? Is this a discovery of the present time? But it is unnecessary to put it more home to your bosoms. If any one subject is nearer to our hearts than another, or ought to be so to British subjects, it is the condition and treatment of our brave troops, to whom we owe so much, to whom we owe a load of gratitude which was never so heavy as it is at present, and in whom now all our hopes are centred. How, gentlemen, can you visit a person with two years' imprisonment in a dungeon, who, feeling strongly upon a subject of so much interest, expresses his feelings with that warmth which cannot but be kindled in him, and which it becomes him to show? If he had no such feeling he would have been unworthy of his subject, and having such feeling, had he shrunk from giving vent to it, he would have proved his cowardice: he has, however, been particularly cautious; he has done little more than reason the point; he has not given full vent to his sentiments, but inasmuch as he has connected his emotions with his argument, you are to take what he has said as a proof of a sincere and an honest heart.

I have already stated to you that the opinions expressed in this publication are not the sentiments of this author alone; but that they were originally broached by the ablest men of the country; men whose high rank in the army renders them not the worse witnesses for the defendant. I have now in my hand a work by Sir Robert Wilson—an officer whom to name is to praise—but who, to describe him in proper colours, ought to be traced through his whole career of service, from the day he first entered the army, up to the present time; whose fame stands upon

record in almost every land where a battle has been fought by the English troops, whether in this or in the last war. It is perfectly well known to you that on one occasion, by his own personal prowess, he saved the life of the Emperor of Germany, for which service he received the highest order of knighthood. You must all know that afterwards through the campaign in Germany, when serving with the allied armies, he rendered himself celebrated by his skill and courage; as well as with our gallant army in Egypt. But not merely is he an ardent friend to the British cause; he is known throughout the whole of the British army as one of its most enthusiastic defenders. Far from being a friend to Buonaparte,—of whom and of his friends you have heard so much to-day,—nothing more distinguishes him than an implacable hatred to that enemy of his country. To so great a length has he carried this, that I believe there is no spot of European ground, except England and Portugal, in which he would be secure of his life; so hostile has been his conduct and so plain and direct his charges against Buonaparte, that from the period when he published his well known work (containing aspersions against that person, which for the honour of human nature one would fain hope are unfounded), he has been held in an abhorrence by the ruler of France, equal to that which Sir Robert Wilson has displayed against him. From 1806, when the plans for the regulation of the army were in agitation, and when he published those opinions which the defendant has now republished, up to the present time, he has not received any marks of the displeasure of the government, but on the contrary has been promoted to higher and to higher honours; and has at length been placed in a distinguished situation near the king himself. During the discussions on our military system, when all men of liberal minds were turning their attention to the subject, he with laudable promptitude and public spirit, addressed a letter to Mr. Pitt, and

entitled it, "An Inquiry into the present State of the Military Force of the British Empire, with a view to its reorganization"—that is to say, with a view to its improvement, Sir Robert Wilson, with, perhaps objectionable taste, using the word reorganization, which is derived from the French. In this publication, the gallant officer, animated by love for the army, and zeal for the cause of his country, points out what he conceives to be the great defects of our military system; and the greatest of all these he holds to be the practice of flogging. He describes this punishment to be the great cause which prevents the recruiting of the army, and which, in one word, produces all manner of mischief to the service—ruining the character of the soldier, and chilling his zeal. I dare say, gentlemen, that you already begin to recollect something which you have heard this day; I dare say you recollect that the defendant is expressly charged with a wish to deter persons from enlisting, and to create dissatisfaction in the minds of the soldiery because he wrote against flogging. But Sir Robert Wilson, you now see, thinks that very opposite effects are to be produced by altering the system. There are fifteen or twenty pages of the pamphlet in my hand which contain an argument to support this opinion. And when you shall hear how the subject is treated by Sir Robert, you will perceive how impossible it is for a person who feels, to avoid, in such a discussion, the use of strong expressions. You will, as I read, see that Sir Robert comes from generals to particulars at once, and describes all the *minutiæ* of military punishments. He first states that "corporal punishment is a check upon the recruiting of the army;" he then goes on, "My appeal is made to the officers of the army and the militia, for there must be no marked discrimination between these two services, notwithstanding there may be a great difference in their different modes of treating the soldiery. I shall sedulously avoid all personal allusions," (and,

gentlemen, you will observe the present defendant has been equally cautious,—not a single personal allusion is to be found throughout his discussion), "the object in view is of greater magnitude than the accusation of individual malefactors." (Malefactors, gentlemen, a much stronger word than can be found in the publication of the defendant). "I shall not enter into particulars of that excess of punishment, which in many instances has been attended with the most fatal consequences. I will not, by quoting examples, represent a picture in too frightful a colouring for patient examination." Sir Robert Wilson then alludes to the crimes for which this dreadful punishment is inflicted. He says, "How many soldiers whose prime of life has been passed in the service, and who have behaved with unexceptionable conduct, have been whipped eventually for an accidental indiscretion. Intoxication is an odious vice, and, since the Duke of York has been at the head of the army, officers have ceased to pride themselves upon the insensate capability of drinking; but, nevertheless, flogging is too severe as a general punishment for what has been the practice of officers." Here, you see, gentlemen, the gallant writer brings in aid of his argument an allusion of a much more delicate nature than any that has been made by the defendant. He speaks of the misconduct of officers, and leads the mind to contrast the trivial consequences of misconduct to them with the severe punishment that awaits the soldier guilty of the same offence. A more delicate subject than this cannot be imagined. It is as much as if he said, "Do not punish the poor private so cruelly for a fault which his superior does not scruple frequently to permit, and for which no chastisement is awarded to him." Sir Robert proceeds—"Absence from quarters is a great fault and must be checked: but is there no allowance to be made for young men, and the temptations which may occur to induce such an occasional neglect of duty?" Gen-

tlemen, do you not immediately, on hearing this, recur to the language used by the defendant when describing the imaginary case of Robert Chilman? This is exactly his argument; he, too, thinks that allowance ought to be made for a young man, particularly one forced into the service, who may, as he says, after a hard day's exercise, meet with some of his companions, and indulge somewhat beyond the bounds of sobriety; and he also thinks what Sir Robert Wilson has thought and published before him, that flogging is a very improper punishment to be inflicted on such a person for such an indiscretion. The pamphlet then in glowing language —language much more strong then that of the publication which you have to try,—describes the ill effects of flogging. "Corporal punishments never yet reformed a corps, but they have totally ruined many a man, who would have proved under milder treatment, a meritorious soldier. They break the spirit without amending the disposition." And now, I beseech you, mark the high colouring of this officer, after all you have heard denounced against the descriptions of the defendant. "Whilst the lash strips the back, despair writhes round the heart, and the miserable culprit, viewing himself as fallen below the rank of his fellow-species, can no longer attempt the recovery of his station in society. Can the brave man, and he endowed with any generosity of feeling, forget the mortifying, vile condition in which he was exposed? Does not, therefore, the cat-o-nine-tails defeat the chief object of punishment?"

Sir Robert Wilson then comes to the comparison between the French military discipline and ours, on which so much stress has been laid in support of the prosecution; and you will hear that this defendant has said nothing on this subject which had not before appeared in the pamphlet I have now in my hand. He says, "Gentlemen who justly boast the most liberal education in the world, have familiarized themselves to a degree of punishment which characterizes no other

nation in Europe;" thus, in fact, supplying the defendant with the words of this publication: "Here alone is still perpetrated," &c. In a subsequent paragraph Sir Robert Wilson specifies France by name, so essential was the mention of the French discipline to his argument. He says, "England should not be the last nation to adopt humane improvements. France allows of flogging only in her marine." In conclusion, the gallant officer appeals to the character of the present age, which he says, "is a remarkable epoch in the history of the world. Civilization is daily making the most rapid progress, and humanity is triumphing hourly over the last enemies of mankind. But whilst the African excites the compassion of the nation, and engages the attention of the British legislature—the British soldier—their fellow-countryman—the gallant, faithful protector of their liberties, and champion of their honour, is daily exposed to suffer under an abuse of that power, with which ignorance or a bad disposition may be armed."

Gentlemen, I think I may venture to say, that in this passage also you recognize something which you have this day heard before. You may recollect the humble attempt of the humble individual who now addresses you, and who asked you whether those who feel so much for strangers, might not be allowed to feel a little for the defenders of their country. The only difference is, that Sir Robert Wilson's language is more forcible—more impressive. His picture stands more boldly out, his language throughout is more glowing than that used by the defendant, or by his advocate.

[Mr. Brougham then alluded to the opinions of General Stewart, of the 95th regiment, who, when a Brigadier-General, published a pamphlet, entitled, "Outlines of a Plan for the General Reform of the British Land Forces."]

This officer first asks, "How will the several parts of

our present military discipline be reconciled to common sense, or to any insight into men and things?" and then proceeds to specify the errors in our system which cannot be so reconciled. The chief of these is the mode of punishment, which, it should seem, every friend to the British army unites to condemn. He says, "The frequent infliction of corporal punishment in our armies tends strongly to debase the minds and destroy the high spirit of the soldiery; it renders a system of increasing rigour necessary; it deprives discipline of the influence of honour, and destroys the subordination of the heart, which can alone add voluntary zeal to the cold obligations of duty." Again,—"The perpetual recurrence to the infliction of infamy on a soldier by the punishment of flogging, is one of the most mistaken modes for enforcing discipline which can be conceived." And then, gentlemen, as if there were some fatality attending the discussion of this question,—as if there was something which prevented any one's touching the subject without comparing the military discipline of France with our own,—General Stewart is scarcely entered on his argument before he is in the middle of this comparison. He says, "In the French army a soldier is often shot, but he rarely receives corporal punishment, and in no other service is discipline preserved on truer principles." You thus hear, gentlemen, what General Stewart says upon the superior discipline of the French army; he holds it up as a pattern to our service,—a service in which he is himself one of the most distinguished individuals.

But lest it should be said that these were young officers (although were we to reckon their campaigns, or even their victories, we might esteem them old)—lest deference may be denied to their opinions because deficient in experience,—and, above all, to show you that this subject, the more it is considered, the more does it teem with vindications of the defendant,—to show you that it is a subject calculated not only to

animate the feelings of the young, but even to thaw the chill of age,—to satisfy you that, although emotion may have generally become blunt under the pressure of years, yet this is more than compensated by the longer experience of the mischiefs which arise from the horrible system of flogging, an experience which occasions the deliberate judgment of the old to rival the indignation of the youthful,—I will now produce to you the publication of a veteran,—a publication also intended to point out, for the purpose of doing away with them, these defects which tarnish our military discipline. I allude to a work from the pen of an officer in the highest ranks of the service—Lieutenant-General Money—who, since the writing of that work, has been promoted to the station of a full general. You shall now hear what he says on the subject of flogging; he whose years are numerous as his services, and who is esteemed one of the strictest disciplinarians on the staff: an officer to whom the command of a district has been entrusted, a signal proof of the confidence reposed by government in his honour and his military skill. You have been told that attacking the scourge as applied to the backs of our soldiers, has a tendency to injure the army, and to deter persons from entering into it; General Money, you will find, speaks directly to these points; and you will find him declaring, that this practice which our author condemns, does itself occasion desertion, and deters persons from entering into the military service of their country. The publication to which I allude is, "A Letter to the Right Honourable William Windham on the Defence of the Country at the Present Crisis, by Lieutenant-General Money." He says, "I beg leave, Sir, to submit to you, and to his Majesty's ministers, a measure, the adoption of which will, in the opinion of every military man I have conversed with on the subject, bid fair to put a stop to desertion." This measure, which in the opinion of every military man is likely to produce so desirable

an effect, you will find to be neither more nor less than the measure which this defendant recommends, and has exerted himself to bring about, namely, the discontinuance of flogging. He goes on—"When a man deserts, and he is taken, he is liable to be shot: that, indeed, is seldom inflicted for the first offence, but he is punished in a manner that is not only a disgrace to a nation that boasts of its freedom and its humanity, but is an injury to the recruiting our army. It strikes such a terror into the peasantry of the country. The culprit is tied up to the halberts in the presence of the whole regiment, and receives six or eight hundred lashes, sometimes a thousand. He faints!—he recovers, and faints again!!—and some expire soon after the punishment! It wounds my feelings when I reflect on the dreadful sufferings of men I have seen, and been obliged to see, thus cruelly punished; and what other epithet can be used than cruel? I have told men that I wished the sentence had been death; and true it is, that there are men who have preferred death to the disgrace and punishment."

Gentlemen, I put to you these passages out of the different publications, published by those gallant, distinguished, and experienced officers; and I ask you, whether you will send the defendant to a dungeon for doing that which has procured them the highest honours,—the favour of their sovereign, and the approbation of their country?

I entreat you to reflect on the publication which is charged in the indictment with being libellous; and which has been commented on by the gentleman opposite; and I beg you would recall to mind the comments he has made upon it. He has told you it has a tendency, and must have been published with an intention, to excite mutiny and disaffection in our army, by drawing a contrast unfavourable to our service when compared with the French; that it will induce the soldiers to join the standard of France, and to rebel against

their officers; and lastly, that it will prevent persons from entering into the service. Can Sir Robert Wilson, gentlemen, can General Stewart, or can the veteran officer whose very expressions the writer has used, by any stretch of fancy, be conceived to have been actuated by such intentions? Were they such madmen as desire to alienate the men from their officers, and to disincline others from entering into the army of which they were commanders, and of which they were the firmest friends; to indispose men towards the defence of their own country, and lead them to wish for a foreign and a French yoke? Can you stretch your fancy to the thought of imputing to them such motives as these? You see the opinions they have given to the world; with what arguments, and with what glowing, I will even say violent language, they have expressed themselves. And shall it be said that this defendant, who uses language not nearly so strong, has published a work which has such a fatal tendency, or that he was actuated by so infernal an intention?—an intention which in these officers would argue downright madness; but an intention which, in the author of this publication, would show him fit only for the fellowship of demons? Unless you are convinced, not only that what is innocent at Westminster is libellous here, but that what is commendable in those officers is diabolical in the defendant, you cannot sentence him to a dungeon for doing that which has obtained the kindness of their sovereign and the gratitude of the country for those distinguished men.

I have heard so much about invidious topics, about dangerous subjects of discussion; I have seen so much twisting of expressions to give them a tendency to produce disaffection, and I know not what besides, in the people of this country—that I am utterly at a loss to conceive any one subject, whether it relate to military discipline or to civil polity, that is not liable to the same objection. I will put my defence on this ground: If any one of those subjects which are commonly dis-

cussed in this country, and particularly of those relative to the army, can be handled in a way to prevent expressions from being twisted by ingenuity, or conceived by some to have a tendency to produce discontent,—if any mode of treating such subjects can be pointed out to me, in which we shall be safe, allowing the argument of my learned friend to be just,—I will give up this case, and confess that the intention of the defendant was that which is imputed to him. Is there, to take an obvious instance, a subject more commonplace than that of the miserable defects which now exist in the commissariat of our army? I only select this because it comes first to my thoughts. Has it not always happened that in the unfortunate necessity of a retreat, all mouths have resounded with the ill-conduct of the commissary? Has it not been said in the hearing of the army and of the country, that the distresses of our troops on a retreat were increased by their want of food, owing to the inadequacy of our commissariat staff? But we have not only been in the habit of blaming particular instances of neglect,—we have also taken upon ourselves to blame the system itself. Nay, we have gone farther; we have placed our commissariat in comparison with that of France, and we have openly and loudly given the preference to the enemy's system. And why may not the defendant do the same with reference to another point of military discipline? Can you fancy a subject more dangerous, or which is more likely to occasion mutiny and revolt, than that of provisions, if you tell the soldier that through the neglect of his government he runs the risk of being starved, while in the same breath you add, that Buonaparte's troops are well supplied, through the attention which he pays to this most important branch of a general's duty? Yet, gentlemen, no one has ever been censured, nor has it been said that it was his intention to excite confusion, because he has condemned that delicate part

of our military system which relates to providing the soldiers with food.

In truth, we must submit to these discussions, if we would have any discussion at all. Strong expressions may, indeed, be pointed out here and there in a publication on such topics, and one may be more strong than another. When he is heated, a man will express himself warmly. And, am I to be told, that in discussing a subject which interests all men, no man is to express himself with force? Is it the inflammatory tendency of this publication, or is it, in one word, the eloquence with which the writer has treated his subject, that has excited alarm and instigated the present prosecution? If he had handled the matter dully, coldly, stupidly, he might have gone on to the end of time; he would never have heard a breath of censure, seen a line of Information, or produced an atom of effect. If warmth is not to be pardoned in discussing such topics, to what are the feelings of men to be confined?

I shall, perhaps, hear—Confine yourselves to such subjects as do not affect the feelings,—to matters that are indifferent alike to all men; go to arithmetic,—take up abstract points of law,—"tear passion to tatters" upon questions in addition and subtraction,—be as warm as you please on special pleading,—there is room sufficient for the workings of the heart. But beware of what interests all mankind, more especially your own countrymen; touch not the fate and fortune of the British army. Beware of those subjects which concern the men who advance but to cover themselves with victory, and who retreat but to eclipse the fame of their valour by the yet higher glory of their patient endurance; men who then return to their homes clothed in laurels, to receive the punishment of the lash, which you inflict on the meanest and most unnatural malefactors! Let us hear nothing of the "charnel-houses of the West Indies," as Sir Robert

Wilson calls them, that yawn to receive the conquerors of Corunna! Beware of touching on these points; beware of everything that would animate every heart; that would make the very stones shudder as they re-echo your sound, and awaken the rocks to listen and to weep! You must not treat such subjects at all, or else you must do it coolly, regularly, gradually, allowing yourselves to glow by some scale, of which my learned friend is no doubt in possession; you must keep to a line which is so fine that no eye but his can perceive it.

This may not be! this must not be! While we continue to live in England it may not be; while we remain unsubdued by that egregious tyrant, who persecutes all freedom, with a rancour which only oppressors can know; that tyrant against whom the distinguished officers I have been quoting, wage a noble and efficient resistance, and against whom this defendant, in his humbler sphere, has been zealous in his opposition;—the tyrant whose last and most highly-prized victory is that which he has gained over the liberty of discussion. Yes, gentlemen, while that tyrant enslaves his own subjects, and turns them loose to enslave others, no man under his sway dares attempt more than calmly and temperately to discuss his measures. Writers in his dominions must guage their productions according to the standard established by my learned friend, of which he has one duplicate and Buonaparte's attorney-general the other; they must square their argument according to that rule; and adjust the warmth of their language to a certain defined temperature. When they treat of the tyrant's ambitious and oppressive policy; when they tell of the rigours of his military conscription; they must keep to the line which has this day been marked out in this court. Should they go beyond that line,—should they engage in their subject with an honest zeal, and treat it with a force likely to gain conviction,

—that is to say, should they treat it after the manner of the writer of this composition which is now before you,—they may lay their account with being dragged forth to be shot without a trial, like the unhappy bookseller of Nuremberg, or with being led in mockery to a court, and after the forms of a judicial investigation are gone through, consigned by the decision of the judges to years of imprisonment.

And yet, gentlemen, there is some excuse for Buonaparte when he acts in this manner. His government, as he well knows, is bottomed in injustice and cruelty. If you search and lay bare its foundation, you must necessarily shake it to its centre,—its safety consists in silence and obscurity! Above all, is it essential to its power that the cruelty of his military system should not be attacked, for on it does he rest his greatness. The writer, therefore, who should treat, in a nervous style, of the rigour of his conscription, could expect nothing but severe punishment. But happily, things in this country are a little different. Our constitution is bottomed in law and in justice, and in the broad and deep foundation of universal liberty! It may, therefore, court inquiry. Our establishments thrive in open day—they even flourish surrounded and assailed by the clamour of faction. Our rulers may continue to discharge their several duties, and to regulate the affairs of the state, while their ears are dinned with tumult. They have nothing to fear from the inquiries of men. Let the public discuss,—so much the better. Even uproar is wholesome in England, while a whisper may be fatal in France!

But you must take it with you, in deciding on the merits of this publication, that it is not upon our military system that the defendant has passed his reflections,—it is not our military system that he condemns. His exertions are directed to remove a single flaw which exists on the surface of that system,—a speck of rottenness which mars its beauty, and is

destructive of its strength. Our military system in general, he admires in common with us all; he animadverts upon a taint and not upon its essence; upon a blot which disfigures it, and not upon a part of its structure. He wishes you to remove an excrescence which may be pulled away without loosening the foundation; and the rest will appear the fairer, and remain so much the sounder and more secure.

You are now, gentlemen, to say by your verdict whether the mere reading of this publication,—taking all its parts together,—not casting aside its limitations and qualifications, but taking it as it appears in this paper—you are now to say, whether the mere perusal of it in this shape is likely to produce those effects which have been described by the counsel for the prosecution,—effects which have never yet been produced by the infliction of the punishment itself. This consideration, gentlemen, seems to deserve your very best attention. If you can say aye to this, you will then bring your verdict against the defendant,—and not only against him, but against me, his advocate, who have spoken to you much more freely than he has done,—and against those gallant officers who have so ably condemned the practice which he condemns,—and against the country which loudly and rightfully demands an attention to its best interests,—and against the stability of the British Constitution.

SPEECH

IN DEFENCE OF

HER MAJESTY QUEEN CAROLINE.

INTRODUCTION.

Under the superintendence of counsellors not in office, but probably looking towards it, the Commission to procure evidence against the Queen proceeded at Milan; and there is no occasion to characterize the fruits of its inquiries otherwise than as they have been described in colours which, though they may be strong, are only so because they are strong enough to retain their likeness to the original they represent.

"The Milan Commission proceeded under this superintendence; and as its labours so were their fruits exactly what might have been expected. It is the first impression always arising from any work undertaken by English hands and paid for by English money, that an inexhaustible fund is employed, and with boundless profusion; and a thirst of gold is straightway excited which no extravagance of liberality can slake. The knowledge that a board was sitting to collect evidence against the Queen, immediately gave such testimony a high value in the market of Italian perjury; and happy was the individual who had ever been in her house or admitted to her presence: his fortune was counted to be made. Nor were they who had viewed her mansion, or had only known the arrangements of her villa, without hopes of sharing in the golden prize. To have seen her pass, and noticed who attended her person, was a piece of good luck. In short, nothing, however remotely connected with herself, or her family, or her residence, or her habits, was without its value among

a poor, a sanguine, and an imaginative people. It is certain that no more ready way of proving a case, like the charge of criminal intercourse, can be found, than to have it first broadly asserted for a fact; because this being once believed, every motion, gesture, and look is at once taken as proof of the accusation, and the two most innocent of human beings may be overwhelmed with a mass of circumstances, almost all of which, as well as the inferences drawn from them, are really believed to be true by those who recount or record them. As the treachery of servants was the portion of this testimony which bore the highest value, that, of course, was not difficult to procure; and the accusers soon possessed what, in such a case, may most truly be said to be *accusatori maxime optandum*—not, indeed, *confitentes reos*, but the man-servant of the one, and the maid-servant of the other supposed paramour. Nor can we look back upon these scenes without some little wonder how they should not have added even the *confitentem reum*; for surely in a country so fertile of intriguing men and abandoned women,—where false oaths, too, grow naturally, or with only the culture of a gross ignorance and a superstitious faith,—it might have been easy, we should imagine, to find some youth, like Smeatton in the original Harry the Eighth's time, ready to make his fortune, both in money and female favours, by pretending to have enjoyed the affections of one whose good nature and easy manners made the approach to her person no difficult matter at any time. This defect in the case can only be accounted for by supposing that the production of such a witness before the English public might have appeared somewhat perilous, both to himself and to the cause he was brought to prop with his perjuries. Accordingly, recourse was had to spies, who watched all the parties did, and when they could not find a circumstance, would make one; men who chronicled the dinners and the suppers that were eaten, the walks and the sails

that were enjoyed, the arrangements of rooms and the position of bowers, and who, never doubting that these were the occasions and the scenes of endearment and of enjoyment, pretended to have witnessed the one, in order that the other might be supposed; but with that inattention to particulars which Providence has appointed as the snare for the false witness, and the safeguard of innocence, pretended to have seen in such directions as would have required the rays of light to move not straightforward, but round about. Couriers that pried into carriages where the travellers were asleep at grey daylight, or saw in the dusk of dewy eve what their own fancy pictured,—sailors who believed that all persons could gratify their animal appetites on the public deck, where themselves had so often played the beast's part,—lying waiting-women, capable of repaying the kindness and charity that had laid the foundation of their fortune, with the treachery that could rear it to the height of their sordid desires,—chambermaids, the refuse of the streets, and the common food of wayfaring licentiousness, whose foul fancy could devour every mark that beds might, but did not, present to their practised eye,—lechers of either sex, who would fain have gloated over the realities of what their liquorish imagination alone bodied forth,—pimps of hideous aspect, whose prurient glance could penetrate through the keyhole of rooms where the rat shared with the bug the silence of the deserted place,—these were the performers whose exploits the Commissioners chronicled, whose narratives they collected, and whose exhibition upon the great stage of the first tribunal of all the earth, they sedulously and zealously prepared by frequent rehearsal. Yet with all these helps to success,—with the unlimited supply of fancy and of falsehood which the character of the people furnished—with the very body-servants of the parties hired by their wages, if not bought with a price,—such an array could only be produced, as the

whole world at once pronounced insufficient to prove any case, and as even the most prejudiced of assemblies in the accuser's favour turned from with disgust."—*Edinburgh Review*, vol. lxvii., pp. 41-43.

The proceedings of 1820, though they ended in the signal discomfiture of the Queen's enemies, by no means put an end to their persecutions. Although declared innocent by the fate of the bill, which was withdrawn on the 10th of November, after the second reading had been carried by only nine votes, and when it became manifest that it must be flung out on the next stage, the usual insertion of her Majesty's name in the liturgy was still withheld; and a motion on the subject suggested by Sir Charles Wetherell, a determined, but most honest and consistent, as well as highly-gifted member of the Tory party, was rejected in the House of Commons. In the following summer, the coronation of George IV. was proceeded with, and of course the Queen claimed to be crowned, as all her royal predecessors had been. But this, too, was peremptorily refused, and the annoyance occasioned by these vexatious proceedings, coming after so long a life of ill-treatment, is generally believed to have hastened her end. The mournful inscription which she desired to have placed upon her coffin is well known,—"Caroline of Brunswick, the murdered Queen of England."

CASE OF

QUEEN CAROLINE.

House of Lords—3d and 4th Oct., 1820.

May it please your Lordships,—The time is now come when I feel that I shall truly stand in need of all your indulgence. It is not merely the august presence of this assembly which embarrasses me, for I have oftentimes had experience of its condescension,—nor the novelty of this proceeding that perplexes me, for the mind gradually gets reconciled to the strangest things,—nor the magnitude of this cause that oppresses me, for I am borne up and cheered by the conviction of its justice, which I share with all mankind; but, my lords, it is the very force of that conviction, the knowledge that it operates universally, the feeling that it operates rightly, which now dismays me with the apprehension that my unworthy way of handling it may, for the first time, injure it; and, while others have trembled for a guilty client, or been anxious in a doubtful case, or crippled with a consciousness of some hidden weakness, or chilled by the influence, or dismayed by the hostility, of public opinion, I, knowing that here there is no guiltiness to conceal, nor anything, save the resources of perjury, to dread, am haunted with the apprehension that my feeble discharge of this duty may for the first time cast that cause into doubt, and may turn against me for condemnation those millions of your lordships' countrymen whose jealous eyes are now watching us, and who will not fail to impute it to me, if your lordships should reverse the judgment which

the case for the charge has extorted from them. And I feel, my lords, under such a weight so troubled, that I can hardly at this moment, with all the reflection which the indulgence of your lordships has accorded me, compose my spirits to the discharge of my professional duty, under the pressure of the grave responsibility which accompanies it. It is no light addition to this feeling that I foresee, though happily at some distance, that before these proceedings close, it may be my unexampled lot to discharge a duty in which the loyalty of a good subject may, among the ignorant, among the thoughtless,—certainly not for a moment with your lordships,—suffer an impeachment.

My lords, the Princess Caroline of Brunswick arrived in this country in the year 1795,—the niece of our sovereign, the intended consort of his heir-apparent, and herself not a very remote heir to the crown of these realms. But I now go back to that period only for the purpose of passing over all the interval which elapsed between her arrival then and her departure in 1814. I rejoice that, for the present at least, the most faithful discharge of my duty permits me to draw this veil; but I cannot do so without pausing for an instant, to guard myself against a misrepresentation to which I know this cause may not unnaturally be exposed, and to assure your lordships most solemnly, that if I did not think that the cause of the Queen, as attempted to be established by the evidence against her, not only does not require recrimination at present,—not only imposes no duty of even uttering one whisper, whether by way of attack, or by way of insinuation, against the conduct of her illustrious husband; but that it rather prescribes to me, for the present, silence upon this great and painful head of the case,—I solemnly assure your lordships, that but for this conviction, my lips on that branch would NOT be closed; for, in discretionally abandoning the exercise of the power which I feel I have, in postponing for the present the statement of that case of which I am possessed, I feel confident that I am waiv-

ing a right which I possess, and abstaining from the use of materials which are mine. And let it not be thought, my lords, that if either now I did conceive, or if hereafter I should so far be disappointed in my expectation that the case against me will fail, as to feel it necessary to exercise that right,—let no man vainly suppose that not only I, but that any, the youngest member of the profession, would hesitate one moment in the fearless discharge of his paramount duty. I once before took leave to remind your lordships,—which was unnecessary, but there are many whom it may be necessary to remind, —that an advocate, by the sacred duty which he owes his client, knows, in the discharge of that office, but one person in the world, THAT CLIENT AND NONE OTHER. To save that client by all expedient means,—to protect that client at all hazards and costs to all others, and among others to himself,—is the highest and most unquestioned of his duties; and he must not regard the alarm—the suffering—the torment—the destruction—which he may bring upon any other. Nay, separating even the duties of a patriot from those of an advocate, and casting them, if need be, to the wind, he must go on reckless of the consequences, if his fate it should unhappily be, to involve his country in confusion for his client's protection! *

But, my lords, I am not reduced to this painful necessity. I feel if I were to touch this branch of the case now, until any event shall afterwards show that unhappily I am deceiving myself—I feel that if I were now to approach the great subject of recrimination, I should seem to give up the higher ground of innocence on which I rest my cause; I should seem to be Justifying when I plead Not Guilty; I should seem to argue in extenuation and in palliation of offences, or levities, or improprieties, the least and the lightest of which I stand here utterly to deny. For it is false, as has been said—it is foul and false as those have dared to say,

* Recrimination implied, if it did not include, the Roman Catholic marriage, and forfeiture of the crown.

who, pretending to discharge the higher duties to God, have shown, that they know not the first of their duties to their fellow-creatures—it is foul, and false, and scandalous in those who have said (and they know that it is so who have dared to say), that there are improprieties admitted in the conduct of the Queen. I deny that the admission has been made. I contend that the evidence does not prove them. I will show you that the evidence disproves them. One admission, doubtless, I do make; and let my learned friends who are of counsel for the Bill take all the benefit of it, for it is all that they have proved by their evidence. I grant that her Majesty left this country and went to reside in Italy. I grant that her society was chiefly foreign. I grant that it was an inferior society to that which she once enlightened and graced with her presence in this country. I admit, my lords, that while here, and while happy in the protection—not perhaps of her own family, after the fatal event which deprived it of its head; but while enjoying the society of your lordships and the families of your lordships,—I grant that the Queen moved in a more choice, in perhaps a more dignified society, than she afterwards adorned in Italy. And the charge against her is, that she has associated with Italians, instead of her own countrymen and countrywomen; and that, instead of the peeresses of England, she has sometimes lived with Italian nobility, and sometimes with persons of the commonalty of that country. But, who are they that bring this charge, and above all, before whom do they urge it? Others may accuse her—others may blame her for going abroad—others may tell tales of the consequences of living among Italians, and of not associating with the women of her country, or of her adopted country; but it is not your lordships that have any right to say so. It is not you, my lords, that can fling this stone at her Majesty. You are the last persons in the world—you, who now presume to judge her, are the last persons in the world so to charge her; for you are the witnesses

whom she must call to vindicate her from that charge. You are the last persons who can so charge her; for you, being her witnesses, have been also the instigators of that only admitted crime. While she was here, she courteously opened the doors of her palace to the families of your lordships. She graciously condescended to mix herself in the habits of most familiar life, with those virtuous and distinguished persons. She condescended to court your society, and, as long as it suited purposes not of hers—as long as it was subservient to views not of her own—as long as it served interests in which she had no concern,—she did not court that society in vain. But when changes took place—when other views opened—when that power was to be retained which she had been made the instrument of grasping—when that lust of power and place was to be continued its gratification, to the first gratification of which she had been made the victim—then her doors were opened in vain; then that society of the Peeresses of England was withholden from her; then she was reduced to the alternative, humiliating indeed, for I say that her condescension to you and yours was no humiliation,—she was only lowering herself, by overlooking the distinctions of rank to enjoy the first society in the world,—but then it pleased you to reduce her to what was really humiliation,—either to acknowledge that you had deserted her,—to seek the company of those who now made it a favour which she saw they unwillingly granted, or to leave the country and have recourse to other society inferior to yours. I say, then, my lords, that this is not the place where I can be told—it is not in the presence of your lordships I must expect to hear any one lift his voice to complain,—that the Princess of Wales went to reside in Italy, and associated with those whose society she neither ought to have chosen, nor would have chosen—certainly would not have chosen, perhaps ought not to have chosen—had she been in other and happier circumstances.

In the midst of this, and of so much suffering as to an ingenuous mind such conduct could not fail to cause, she still had one resource, and which, for a space, was allowed to remain to her—I need hardly say I mean the comfort of knowing that she still possessed the undiminished attachment and grateful respect of her justly respected and deeply lamented daughter. An event now took place which, of all others, most excites the feelings of a parent: that daughter was about to form a union upon which the happiness—upon which, alas! the Queen knew too well how much the happiness, or the misery of her future life must depend. No announcement was made to her Majesty of the projected alliance. All England occupied with the subject—Europe looking on with an interest which it certainly had in so great an event—England had it announced to her; Europe had it announced to her—each petty German prince had it announced to him; but the one person to whom no notice of it was given, was the mother of the bride who was to be espoused; and all that she had done then to deserve this treatment was, with respect to one of the illustrious parties, that she had been proved, by his evidence against her, to be not guilty of the charge he launched at her behind her back; and, with respect to his servants, that they had formerly used her as the tool by which their ambition was to be gratified. The marriage itself was celebrated. Still, no notice was communicated to the Queen. She heard it accidentally by a courier who was going to announce the intelligence to the Pope,—that ancient, intimate, much-valued ally of the Protestant Crown of these realms, and with whose close friendship the title of the Brunswicks to our Crown is so interwoven. A prospect grateful to the whole nation, interesting to all Europe, was now afforded, that the marriage would be a fruitful source of stability to the royal family of England. The whole of that period, painfully interesting to a parent as well as to a husband, was passed without the slightest communication; and if the Princess Charlotte's

own feelings had prompted her to open one, she was in a state of anxiety of mind and delicacy of frame, in consequence of that her first pregnancy, which made it dangerous to have maintained a struggle between power and authority on the one hand, and affection and duty on the other. An event most fatal followed, which plunged the whole of England into grief, one in which all our foreign neighbours sympathized; and while, with a due regard to the feelings of those foreign allies, and even of strange powers and princes with whom we had no alliance, that event was speedily communicated by particular messengers to each, the person in all the world who had the deepest interest in the event—the person whose feelings, above those of all the rest of mankind, were most overwhelmed and stunned by it,—was left to be stunned and overwhelmed by it accidentally; as she had, by accident, heard of the marriage. But if she had not heard of the dreadful event by accident, she would, ere long, have felt it; for the decease of the Princess Charlotte was communicated to her mother, by the issuing of the Milan Commission, and the commencement of the proceedings instituted for the third time against her character and her life.

See, my lords, the unhappy fate of this illustrious woman! It has been her lot always to lose her surest stay, her best protector, when the dangers most thickened around her; and, by a coincidence almost miraculous, there has hardly been one of her defenders withdrawn from her, that his loss has not been the signal for an attack upon her existence. Mr. Pitt was her earliest defender and friend in this country. He died in 1806; and, but a few weeks afterwards, the first inquiry into the conduct of Her Royal Highness began. He left her a legacy to Mr. Perceval, her firm, dauntless, most able advocate. And, no sooner had the hand of an assassin laid Mr. Perceval low, than she felt the calamity of his death, in the renewal of the attacks, which his gallantry, his skill, and his invariable

constancy had discomfited. Mr. Whitbread then undertook her defence; and, when that catastrophe happened, which all good men lament without any distinction of party or sect, again commenced the distant growling of the storm; for it then, happily, was never allowed to approach her, because her daughter stood her friend, and some there were who worshipped the rising sun. But, when she lost that amiable and beloved child, all which might have been expected by her—all which might have been dreaded by her if she had not been innocent—all she did dread—because, who, innocent or guilty, loves persecution? who delights in trial, even when character and honour are safe?—all was at once allowed to burst upon her head; and the operations began with the Milan Commission. And, as if there were no possibility of the Queen losing a protector without some most important scene against her being played in this too real drama, the day which saw the venerable remains of our revered sovereign consigned to the tomb—of that sovereign who, from the first outset of the Princess in English life, had been her constant and steady defender—that same sun ushered the ringleader of the band of perjured witnesses into the palace of his illustrious successor! Why do I mention these things? Not for the sake of making so trite a remark, as that trading politicians are selfish—that spite is twin-brother to ingratitude—that nothing will bind base natures—that favours conferred, and the duty of gratitude neglected, only make those natures the more spiteful and malignant. My lords, the topic would be trite and general, and I should be ashamed to trouble you with it; but I say this, in order to express once more my deep sense of the unworthiness with which I now succeed such powerful defenders, and my alarm lest my exertions should fail to do what theirs must have accomplished had they survived.

My lords, I pray your attention for a few moments to what all this has resulted in. It has ended in the

getting up of a story, to the general features of which I am now first about to direct the attention of your lordships. But I must begin by praying you to recollect what the evidence has not only not proved, but is very likely to have discharged from the memory of your lordships,—I mean the opening of my learned friend, the Attorney-General. Now, he shall himself describe, in his own words, the plan and the construction of that opening statement. It is most material for your lordships to direct your attention to this; because much of the argument rests on this comparative view. He did not, then, make a general speech, without book, without direction or instruction; but his speech was the spoken evidence; it was the transcript of that which he had before him; and the way in which that transcript was prepared, I leave your lordships to conjecture, even uninformed to a certain degree as you now must needs be. "I will," said my learned friend —and every one who heard him make the promise, and who knows his strictly honourable nature, must have expected its exact fulfilment—"I will most carefully state nothing which I do not, in my conscience, believe I shall be able to substantiate in proof; but I will also withhold nothing upon which I have that conviction." I believed the Attorney-General when I heard him so promise. I knew that he spoke from his conscience; and now that I see he has failed in the fulfilment, I equally well know that there is but one cause for the failure,—that he told you what he had in his brief, and what had found its way into his brief from the mouths of the witnesses. He could get it in no other way but that. The witnesses who had told falsehoods before in private, were scared from repeating them here, before your lordships. Now, I will give your lordships one or two specimens of this; because I think these samples will enable you to form a pretty accurate estimate, not only of the value of that evidence, where it comes not up to my learned friend's opening, but also to form a

pretty good guess of the manner in which that part of it which did succeed was prepared for the purpose. I will merely take one or two of the leading witnesses, and compare one or two of the matters which my learned friend opened, and I will not tire you with the manner in which they told you the story.

First, my learned friend said, that the evidence of the Queen's improper conduct would come down almost "to the time at which I have now the honour of addressing your lordships." I am quoting the words of my learned friend, from the short-hand writer's notes. In fact, by the evidence that "*almost*" means up to the present time, all but three years; that is to say, all but a space of time exactly equal to that space of time over which the other parts of the Evidence extend. At Naples, where the scene is laid which is first so sedulously brought before your lordships, as if the first connexion between the two parties began upon that occasion,—as if that were the night when the guilty intentions, which they long had been harbouring, but for want of opportunity had not been able to fulfil, were at length gratified,—at Naples, I pray your lordships to attend to the manner in which he opened this first and most important branch of his whole case, and which if it fails, that failure must affect the statement of circumstances, not only in this part of the Evidence, but in all the subsequent stages of it. How does my learned friend open that part of his case? "I shall show you," says he, "that there are clear, decisive marks of two persons having slept in the bed, the night that the Queen came home; the second night she was at Naples, she returned early from the Opera; she went to her own room, from thence she repaired to Bergami's room, where Bergami himself was; the next day she was not visible till an unusually late hour, and was inaccessible to the nobility of Naples." Every one of these assertions, rising one above another in succession and importance,

but even the lowest of them of great moment to the case against her Majesty,—every one of them not only is false, but is negatived by the witness produced to support it. Demont gives no "decisive marks,"—she gives a doubtful and hesitating story. With one exception, there is nothing specific, even in what she swears; and with that I shall afterwards come to deal. But she denies that she knew where the Queen went when she first left her own bed-room. She denies that she knew where Bergami was at the time. She says affirmatively that the next morning the Queen was up and alert by the usual time. Not one tittle of evidence does she give, or anybody else, of her having refused access to any one person who called; nor is any evidence given (to make the whole more complete) that any body called that morning at all.

Then come we to that which my learned friend opened with more than even his wonted precision. We know that all the rest was from his instructions. It could be from no other source. He had never been in Italy. Neither he nor my learned friend, the Solicitor-General, have given us any idea of their knowing what sort of country it is; that they know anything of a Masquerade; that they know anything of a Cassino. My learned friend has represented as if the being blackballed at that Cassino were ruin to a person's character; forgetting who may be the members of the society at the Cassino; that there may be a Colonel Brown; that it is held at the very place where the Milan Commission was held. "But," says my learned friend, the Solicitor-General, "who ever heard of the wife of a royal prince of this country going disguised to a masquerade?" Who would have thought that, being disguised, and on her way to a masquerade, she did not go in her own stage coach, with her livery servants, with a coachman bedizened, with lacqueys plastered, with all the "pomp, pride, and circumstance" of a court or a birth-day, but that she went in a

common hired carriage, without the royal arms, without splendour or garb, coming out at the back-door, instead of issuing out of the front door, with all the world spectators? Nay, I only wonder that my learned friend did not state, as an enormity unheard of and inexplicable, that she went to a masquerade in a domino and with a false face! My lords, it was not, therefore, from their own personal observation, certainly not from having been present at these royal recreations of Murat's court, that my learned friends obtained their knowledge of this cause; they have it from Demont or Majocchi, the witnesses who have been examined again and again; and who have again and again told the same story; but which story being in part founded in fact, they now recollect only the portion that is true, and forgot what is untrue.

"Then," says my learned friend, in this instance which I am now going to state, leaving us to our general suspicions as to where he got his knowledge upon the other circumstances, and coming to something more specific, "I am instructed to state," and in another instance, "the witness says" so and so, showing he was reading the witness's deposition. "I am instructed to state, that the dress which the Princess had assumed, or rather the want of it in part, was extremely indecent and disgusting;" and he adds afterwards, in commenting upon it, that it was of the "most indecent description;" so that she was, on account of that indecency, on account of the disgusting nature of it, by those who actually saw it, hooted from the public theatre. Your lordships will recollect what it came to,—that the Princess was there in a dress that was exceedingly ugly,—the maid Demont said, in a "very ugly" dress; and that was all my learned friend could get her now to assert,—that it was without form and ugly; masques came about her, and she, unknown in her own masque,—for strange as it may appear to my learned friend, a person at a masquerade

endeavours to be disguised,—was attacked from joke or from spite,—oftener from joke than from spite; her own dress being of that ugly description,—for what reason is left to this moment unexplained.

My lords, I should fatigue your lordships if I were to go over other instances,—I shall only mention that at Messina. Voices are said to have been heard. The Attorney-General opened, that at Messina he should prove the Princess and Bergami to have been locked up in the same room, and to have been heard speaking together. That is now reduced, by the evidence, to certain voices being heard, the witness cannot say whose. At Savona, where my learned friend gives you, as he generally does in his speech, the very day of the month, the 12th of April, he stated, that the only access to the Princess's room was through Bergami's, where there was no bed, but that in the Princess's room there was a large bed. The witness proved only one of those particulars out of three.

Passing over a variety of particulars, I shall give only one or two instances from Majocchi's and Sacchi's evidence. "The Princess remained in Bergami's room a very considerable time," the night that Majocchi swore she went into his room, "and there the witness heard them kissing each other," says the Attorney-General. Majocchi says, she remained there one of the times ten minutes, the other fifteen; and that he only heard a whispering. Now, as to Sacchi. The story as told by my learned friend, from the brief in his hand, and which therefore Sacchi must have told before at Milan, is, that a courier one night returned from Milan, that is, that he, Sacchi, returned as a courier from Milan, for it was he whom he meant,—that finding Bergami out of his own room, he looked about, and saw him come out of the Queen's room undressed,—that all the family were in bed,—that he observed him,—that he spoke to him,—and that Bergami explained it by saying he had gone, hearing his

child cry, to see what was the matter, and desired him not to mention anything about it. Sacchi negatives this, as far as a man speaking to so unusual a circumstance, which, if it had happened, must have forcibly impressed his recollection, can do so. He denies it as strongly as a man can, by denying all recollection of any such particulars, although not for want of examination; for my learned friend, the Solicitor-General, questions him over and over again, and he cannot get him to come within a mile of such a fact.

Then come we to the disgraceful scenes, as the Attorney-General described them, at the Barona, which he said,—and if they had been as they were represented to him, I doubt not he used a very fair expression,—he did not tell us what they were, but "they were so disgraceful, that it rather made that house deserve the name of a brothel, than of a palace, or a place fit for the reception of her Majesty, or any person of the least virtue or delicacy." Here there is a most entire failure of proof from all the witnesses.

Then we are told, that at Naples the attendants were shocked and surprised by the conduct of the Queen,—that in Sicily no doubt was entertained by them, from what they saw of the familiarities between the parties, that a criminal intercourse was going on there. Not one of those attendants describes that effect to have been produced upon their minds by what they saw. I shall afterwards come to what they did see; but they do not tell you this, though frequently urged and kindly prompted to do it. Then, as to the visiting of the nobility,—that the Queen's society was given up by the ladies of rank of her own country, from the moment she left this country,—that they all fell away,—in short, that she was treated abroad, I know not from what motive, with something of the same abandonment with which she was treated in this country,—I well know from what motive. All this is disproved by the evidence. How came my learned

friend to forget the fact of that most respectable person, Lady Charlotte Lindsay, joining her at Naples, after her conduct had been observed by all the servants; with which servants Lady Charlotte Lindsay's waiting-woman naturally lived on terms of intimacy, and between which servants and her, I have no idea that anything of that grave-like secrecy existed, which each of them has represented to have existed among themselves up to the time they came to the Cotton Garden depôt, and up to the moment they conveyed from that depôt to your lordship's bar, the resources of their perjury. Lady Charlotte Lindsay, Lord and Lady Glenbervie, Mrs. Falconet, and others, had no doubt some intercourse with those Neapolitan servants, either directly or through their own attendants, all of whom are represented as having been perfectly astounded with the impropriety, nay, the indecency of the conduct of their royal mistress; and yet those noble and virtuous persons are proved to have joined her, some at Naples, some at Rome, some at Leghorn, and to have associated with her, in spite of all this open and avowed and ostentatious indecorum.

But, even to a much later period, and in higher quarters, the Queen's company has been proved, by my learned friend's case, not to have been treated abroad with the neglect which it experienced here. She has been, in the first place, courteously received, even after her return from the long voyage, by the legitimate sovereign prince of Baden, a prince with a very legitimate origin, though with a somewhat revolutionary addition to his territory. Equally well received was she by the still more legitimate Bourbons at Palermo; but courted was her society by the legitimate Stuarts of Sardinia, the heirs legitimate, as contra-distinguished from the heirs of liberty and of right, to the throne of this realm,—the illegitimate and ousted heirs I call them; but the true legitimates of the world, as some are disposed to term them, who do

not hold that allegiance, at least who disguise that allegiance, to the house of Brunswick, which, as good subjects, we all cherish. Nay, even a prince who, I doubt not, will rank in point of antiquity and family, even higher than the legitimate Bourbons and legitimate Stuarts,—I mean his highness the Dey of Tunis, the paragon of Moorish legitimacy,—received her Majesty as if she was respected by all his lighter-coloured brethren in the other parts of the globe. And she was also received in the same respectful manner by the representative of the King at Constantinople. So that wherever she has gone, she has met with respect from all ranks, and has associated with the only persons of authority and note whom she could have had as her vindicators. She was received by all those persons of authority and note, not only not as my learned friend expected to prove, but in the very reverse manner, and as from the evidence I have now described her reception and her treatment.

Suffer me now, my lords, to solicit your indulgence, while I look a little more narrowly into the case which was thus opened, and thus partly not proved, partly disproved, by the Attorney-General. The first remark which must strike any one who attends to this discussion, is one which pervades the whole case, and is of no small importance. Is it not remarkable, that such a case, possessed as they are of such witnesses, should have been left so lame and short as they must admit it to be left, when contrasted with their opening? Was ever a cause of criminal conversation brought into court under such favourable auspices? Who are your witnesses? The very two who, of all man and womankind, must know most of this offence, not only if it were in the daily course of being committed, but if committed at all,—I mean, the body-servants of the two parties, the valet of the man, and the lady's own waiting-maid. Why, in common cases, these are the very witnesses the counsel are panting to have and to

bring into court. From the form of the action, they can hardly ever venture to bring the man's servant; but if they can get hold of one by good fortune, they consider their case must be proved; and then the only question comes to be as to mitigation of damages, for as to the fact, no defendant would any longer hold out and resist. And if you believe any part of their case, it was not from over caution of the parties; it was not from any great restraint they imposed on themselves; it was not that, knowing they were watched, they took care to give the world nothing to see; because, if you believe the evidence, they had flung away all regard to decorum, all trammels of restraint, all ordinary prudence, and had given up the reins to this guilty passion, as if they were still in the hey-day of youthful blood, and as if they were justified by those ties which render its indulgence a virtue rather than a crime. Yet, with all this want of caution, all these exhibitions of want of circumspection, the man's serving-man, and the lady's waiting-woman have not been able to prove more than these meagre facts which, it is pretended, make out the charge. When I say, however, there was no caution or circumspection, I misstate the case. If you believe the evidence,—and it is this great circumstance of improbability to which I solicit your attention,—if you believe the evidence, there was every precaution taken by the parties themselves, to insure discovery, which the wishes and ingenuity of their most malignant adversary could have devised to work their ruin and promote his own designs. Observe how every part of the case is subject to this remark; and then I leave to your lordships confidently the inference that must arise from the observation. You will even find, that just in proportion as the different acts alleged are of a doubtful or of a suspicious, or of an atrocious nature, in exactly the same proportion do the parties take especial care that there shall be good witnesses, and many of them, in order to prove it. It

would be a horrible case, if such features did not belong to it; but such features we have here abundantly; and if the witnesses are to be believed, no mortal ever acted as the Queen is represented to have done. Walking arm in arm is a most light thing; it seldom takes place except in the presence of witnesses, and of those some speak most accurately respecting it; but sitting together in an attitude of familiar proximity, which is somewhat less equivocal, is proved by several witnesses; and those who state it to have been done by the aid of placing the arms round the neck, or behind the back, raise it a step higher,—accordingly the witnesses show you that this happened when the doors were open, in the height of the sun, in a villa where hundreds of persons were walking, and when the house and the grounds were filled with common workmen. Several salutes were given; and as this stands still higher in the scale, it appears that never was a kiss to pass between these lovers, without especial care being taken that a third person should be by to tell the story to those who did not see the deed done. One witness is out of the room while Bergami is about to take his departure on a journey from the Queen, while in Sicily. They wait until he comes in, and then they kiss. When at Terracina, Bergami is going to land; the whole party are on deck; the Princess and Bergami retire to a cabin; but they patiently wait till Majocchi enters, and then the kiss is perpetrated. Sitting on a gun or near the mast of the ship, on the knees of the paramour, is an act still higher in the scale of licentiousness. By one witness it is only proved scantily; but of that hereafter. Care is, however, taken that it should be perpetrated before eleven persons. But sitting upon a gun with the arms entwined, is such an act as leaves nothing to the imagination, except the granting of the last favour—the full accomplishment of the purposes of desire;—this must be done in the presence of all the crew, of all the servants, and all the companions, both

by day and in the evening. The parties might be alone at night,—then, of course, it is not done; but at all other times it is done before all the passengers and all the crew.

But the case is not left here. As your lordships might easily suppose, with persons so wary against their own safety,—such firm and useful allies of their accusers,—such implacable enemies to themselves,—indisputable proofs of the case against them are not wanting to prove the last favour in the presence of good witnesses; and accordingly, sleeping together is not only said to have taken place habitually, nightly in the presence of all the company and all the passengers on board, but always, by land as well as by sea, did everybody see it, that belonged to the party of pilgrims to Jerusalem. Nay, so far is this carried, that Bergami cannot retire into the anti-chamber where the Princess is to change her clothes, or for any other purpose, without special care being taken, that the trusty, silent, honest, unintriguing Swiss waiting-maid shall be placed at the door of that anti-room, and told "You wait here; we have occasion to retire for an hour or two, and be naked together;" or at least she is at liberty to draw what inferences she pleases from the fact.

But, my lords, I wish I could stop here. There are features of peculiar enormity in the other parts of this case; and in proportion as these disgusting scenes are of a nature to annoy every one, however unconcerned in the cause, who hears them; to disgust and almost contaminate the mind of every one who is condemned to listen to them; in that proportion is especial care taken that they shall not be done in a corner. The place for them is not chosen in the hidden recesses of those receptacles of abomination with which the continent abounds, under the debased and vilified name of palaces; the place is not chosen in the hidden haunts which lust has degraded to its own purposes, some

island where vice concealed itself from the public eye of ancient times; it is not in those palaces, in those Capreas of old, that the parties choose to commit such abominations; but they do it before witnesses, in the light of open day, when the sun is at the meridian. And that is not enough: the doing those deeds of unnatural sin in the public highways is not enough; but they must have a courier of their own to witness them, without the veil of any one part of the furniture of a carriage, or of their own dress, to conceal from his eye their disgraceful situation! My lords, I ask your lordships whether vice was ever known before so unwary; whether folly was ever known so extravagant; whether unthinking passion, even in the most youthful period, when the passions swell high, and the blood boils in the veins, was ever known to act so thoughtlessly, so recklessly, so madly, as this case compels me to fancy, as these shameless witnesses pretend to represent? And when you have put the facts to your minds, let this consideration dwell there, and let it operate as a check, when you come to examine the evidence by which the case is supported.

But all this is nothing. Their kindness to the enemy —their faithfulness to the plot against themselves—their determination to work their own ruin—would be left short indeed, if it had gone no farther than this; for it would then depend upon the good fortune of their adversary in getting hold of the witnesses; at least it might be questionable, whether the greater part of their precautions for their own destruction might not have been thrown away. Therefore, every one of these witnesses, without any exception, is either dismissed without a cause, for I say the causes are mere flimsiness personified, or is refused to be taken back, upon his earnest and humble solicitations, when there was every human inducement to restore them to favour. Even this is not all. Knowing what she had done; recollecting her own contrivances; aware of all these cunning and

elaborate devices towards her own undoing; having before her eyes the picture of all those schemes to render detection inevitable and concealment impossible; reflecting that she had given the last finishing stroke to this conspiracy of her own, by turning off these witnesses causelessly, and putting them into the power of her enemy; knowing that that enemy had taken advantage of her; knowing the witnesses were here to destroy her, and told, that if she faced them she was undone; and desired, and counselled, and implored, again and again, to bethink her well before she ran so enormous a risk: the Queen comes to England, and is here, on this spot, and confronts those witnesses whom she had herself enabled to undo her. Menaced with degradation and divorce—knowing it was not an empty threat that was held out—and seeing the denunciation was about to be accomplished—up to this hour she refuses all endeavours towards a compromise of her honour and her rights; she refuses a magnificent retreat and the opportunity of an unrestrained indulgence in all her criminal propensities, and even a safeguard and protection from the court of England, and a vindication of her honour from the two Houses of Parliament! If, my lords, this is the conduct of guilt; if these are the lineaments by which vice is to be traced in the human frame; if these are the symptoms of that worst of all states, dereliction of principle carried to excess, when it almost becomes a mental disease; then I have misread human nature; then I have weakly and groundlessly come to my conclusion; for I have always understood that guilt was wary, and innocence alone improvident.

Attend now, my lords, I beseech you, with these comments upon the general features of the case, to the sort of evidence by which all these miracles, these self-contradictions, these impossibilities, are attempted to be established. I should exhaust myself, beside fatiguing your lordships, if I were to pause here and make a few

of the cogent remarks which so readily offer themselves, upon the connexion of that part of the case which I have now gone through, with the part I am coming to. But there are one or two points so material, that I cannot omit all mention of them before I proceed further. I will make this observation, that, if an ordinary case could not be proved by such evidence as I am now to comment upon; if it would require very different proofs in the most common story; if there were even none of the improbabilities which I have shown—a case such as that I have now described, ought to be proved by the most convincing, the most pure, the most immaculate testimony.

My lords, I do not intend to assert, I have no interest in stating it, that a conspiracy has been forming against the Queen, by those who are the managers of the present proceeding. I say not such a thing. I only will show your lordships, that if there had been such a measure resorted to; that if any persons had been minded to ruin her Majesty by such a device; they could not have taken a better course, and probably they would not have taken a different course, from that which I think the case of the prosecution proves them already to have pursued. In any such design, the first thing to be looked to is the agents, who are to make attacks against the domestic peace of an individual, and to produce evidence of misconduct which never took place. Who are those persons I am fancying to exist, if their existence be conceivable,—who are those that they would have recourse to, to make up a story against the victim of their spiteful vengeance? First of all, they would get the servants who have lived in the house. Without them, it is almost impossible to succeed: with them there is the most brilliant prospect of a triumphant result. Servants who have lived in the family were, in fact, all that could be desired. But, if those servants were foreigners who were to be well-tutored in their part abroad, and had to deliver their

story where they were unknown, to be brought to a place whither they might never return all their days, and to speak before a tribunal who knew no more of them than they cared for it; whose threat they had no reason to dread, whose good opinion they were utterly careless of; living temporarily in a country to which they did not care two rushes whether they returned or not, and indeed knew they never could return; those were the very identical persons such conspirators would have recourse to. But, there is a choice among foreigners. All foreigners are not made of the same materials; but, if any one country under heaven is marked out more than all the rest as the *Officina gentium* for supplying such a race, I say that country is the country of Augustus, Clodius, and Borgia. I speak of its perfidies, without imputing them to the people at large; but there in all ages perfidy could be had for money, while there was interest to be served, or spite to be indulged.

I grant that there are in Italy, as everywhere else, most respectable individuals. I have myself the happiness of knowing many Italian gentlemen, in whose hands I should think my life or my honour as safe as in the hands of your lordships. But I speak of those who *have not* been brought here, when I make this favourable admission. Those who have been brought over and produced at your bar, are of a far other description:—"Sunt in illo numero multi boni, docti, pudentes, qui ad hoc judicium deducti non sunt: multi impudentes, illiterati, leves, quos, variis de causis, video concitatos. Verum tamen hoc dico de toto genere Græcorum; quibus jusjurandum jocus est; testimonium ludus; existimatio vestra tenebræ; laus, merces, gratia, gratulatio proposita est omnis in impudenti mendacio." My lords, persons of this latter description were to be gotten by various means, which the carelessness of the one party, which the wealth and power of the supposed conspirators, placed within their reach. Money,

accordingly, has been given, with a liberality unheard of in any other case, even of conspiracy; and where, by some marvel, money could not operate, power has been called in to its aid.

Having thus procured their agents; having thus intrusted them; how were they to be marshalled to compass the common design? Uniformity of statement is above all things necessary in conspiracy. Accordingly, they are taken, one by one, and carefully examined before one and the same person, assisted by the same coadjutors, and even by the same clerks; they are moved in bodies along the country, by even the same couriers; and these couriers are not the ordinary runners of the Foreign Office of a country which shall be nameless, who had some connexion with the spot, but special messengers, whose attention is devoted peculiarly to this department. Many of the persons intended to be used themselves as witnesses, are employed as messengers; which keeps the different witnesses in the due recollection of their lesson, and has the effect of encouraging the zeal of those witnesses, by giving them an office, an interest, a concern in the plot that is going on. Observe, then, how the drilling goes on. It is not done in a day, nor a week, hardly in a year: but it extends over a long space of time; it is going on for months and years. The Board is sitting at Milan. There they sit at the receipt of perjury; there they carry on their operations, themselves ignorant, no doubt, of its being perjury; but then, so long as it continues, so much the more likely is the crop of gross perjury to be produced. The witnesses are paid for their evidence: the tale is propagated by the person receiving the money carrying it to his own neighbourhood; and he becomes the parent of a thousand tales, to be equally paid as they deserve; and of which one is as false as the other. You mark the care with which the operation is conducted; there is not a witness (I mean an Italian witness) brought to this country, without

previously passing through the Milan drill; because, if they had not passed through that preparatory discipline, there would be want of union and agreement; so that even the mate of the polacca, Paturzo, who was brought here to be examined on the morning after his arrival, was brought through Milan, and passed his examination before the same persons who had taken the former examinations. Aye, and the captain too, who was examined by the Board, more than a year ago, is carried by the way of Milan, to have a conversation with his old friends there, who the year before had examined him to the same story. Here, then, by these means recruited,—with this skill marshalled, with all this apparatus and preparation made ready to come to the field where they are to act,—you have the witnesses safely landed in England; and in order that they may be removed from thence suddenly, all in a mass, they are living together while here; then they are carried over to Holland, and afterwards returned here; and finally deposited, a day or two before their well-earned sustenance and well-earned money require them to appear before your lordships. They are now kept together in masses; formerly they lived in separate rooms; it was necessary not to bring them together before; but those of feeble recollection it was necessary afterwards to keep together, for the convenience of constant mutual communication. There they were, communicating to each other their experiences, animated by the same feelings and hopes, prompted by the same motives to further the same common cause. But not only this; according to the parts of the story which they were to make out before your lordships, they were put together. There are two Piedmontese: they did not associate together in this *contubernium* (for I know of no other name by which to denote the place they occupied), but one of them kept company with the mate and captain of the polacca, because he tells the same story with themselves. It is needless to

add, that they are here cooped up in a state of confinement; here they are, without communicating with any body but themselves, ignorant of everything that is going on around them, and brought from that prison by these means, in order to tell to your lordships the story which, by such means, has been got up among them.

My lords, I fear I may appear to have undervalued the character of the Italians. Suffer me, then, to fortify myself upon the subject, by saying, that I am not the person who has formed such an estimate of the lowest orders of that country. And perhaps it may be some assistance to your lordships, possibly some relief from the tedium of these comments on the character of the evidence in support of the bill, if I carry you back to a former period of the history of this country, and I shall take care not to choose any remote period, or resort to circumstances very dissimilar from those which mark the present day. Your lordships, I perceive, anticipate me. I naturally go back to the reign of Henry VIII., and the proceedings against Catharine of Arragon. And I shall show your lordships in what way we have a right to view Italian testimony, though proceeding from sources calculated to beget impressions very different from the statements of discarded servants. You will find in the records of that age, in Rymer's Collection, some curious documents with respect to the process of Henry VIII. The great object, as your lordships know, was, to procure and consult the opinions—the free, unbiassed opinions—of the Italian jurists, in favour of his divorce. Rymer gives us the opinions of the professors and doctors of several of the Italian universities; and from them you will see that, by a strange coincidence, these *Docti* gave their "free, unbiassed opinions," in nearly the same words. I shall select that of the most celebrated city of the whole, which is known by the appellation of Bologna the Learned. The doctors there say, one and all, that,

in compliance with the request of the King, they each separately, and unconnected with his fellows, had examined the case; they had taken all the care which your lordships are taking on the present occasion; and then, having well weighed the matter,—"Censemus, judicamus, dicimus, constantissime testamur, et indubie affirmamus," they say,—having sifted the question, they are one and all of opinion, that Henry VIII. has a right to divorce his queen. But it seems that, from the great similarity of the opinions of the doctors, and of the language in which these were expressed, there existed at that time much the same suspicion of a previous drilling, as appears to have prevailed in a certain other case which I shall not now mention; and that to repel this suspicion, pretty nearly the same precautions were used as in the other case. Indeed, by a singular coincidence, these *Doctissimi Doctores* of the sixteenth century, were directed to swear, which they might do with a safe conscience, that they had never opened their mouths to one another on the subject, in the same manner as the *illiterati et impudentes* of the present proceeding swore, that they had never talked to one another on the subject of what each had to swear. The doctors and divines of Italy swore on the holy gospel, "that they never had, directly or indirectly, communicated their sentence, or any word or thing concerning the same, by sign, word, deed, or hint, until a certain day;" which was the day they all came to understand the matter.

Now, my lords, all this appeared *prima facie*, a very sound and specious case; as every security had been taken to guard against captious objections; and with that character it would probably have passed down to posterity, if there had been no such thing as a good historian and honest man, in the person of Bishop Burnet; and he, with his usual innocence, being a great advocate of Harry VIII., in consequence

of his exertions in support of the Reformation, tells the tale in the way which I am now going to state; still leaning towards that king, but undoubtedly letting out a little that is rather against himself. Harry first provided himself with an able agent; and it was necessary that he should also be a learned one. He took one, then, to whom my learned friend, the Solicitor-General's eulogium on the head of the Milan commission, would apply in some of the words; a man of great probity, and singularly skilled in the laws of his country; and by a still more curious coincidence, the name of Harry's agent happened also to be Cooke. "He went up and down," says Burnet, "procuring hands; and he told them he came to, that he desired they would write their conclusions, according to learning and conscience" [as I hope has been done at Milan], "without any respect or favour, as they would answer it at the last day; and he protested" [just as I have heard some other persons do], "that he never gave nor promised any divine anything, till he had first freely written his mind;" and he says, that "what he then gave, was rather an honourable present than a reward;" a compensation, not a recompense, (to use the language of a right reverend interpreter.)* These were the very words used in that country at that time, as they have been recently in this.

Then, we have a letter from this agent; as who knows, two hundred years hence there may not turn up letters from Milan? There is extant a letter of Cooke's to Henry VIII., dated the 1st of July, 1530, in which he says, "My fidelity bindeth me to advantage your highness, that all Lutherans be utterly against your highness in this cause, and have told as much, with their wretched power, malice without reason or authority, as they could and might; but I doubt not," says he, "that all Christian universities," (Christian contra-

* Bishop Marsh, being a great Germanic scholar, aided the House in explaining this distinction taken by some witnesses.

distinguished from Lutheran!) "that all Christian ministers, if they be well handled, will earnestly conclude with your highness. Albeit, gracious lord," now comes he to expound what he means by the well-handling of the Christian universities; "albeit, gracious lord, if that I had in time been sufficiently furnished with money; albeit, I have, beside this seal, procured unto your highness 110 subscriptions; yet, it had been nothing, in comparison of that that I might easily and would have done. And herein I enclose a bill specifying by whom and to whom I directed my said letters, in most humble wise beseeching your most royal clemency to ponder my true love and good endeavouring, and not suffer me to be destitute of money, to my undoing, and the utter loss of your most high causes here." Now this, my lords, undoubtedly is the outward history of the transaction; but we have only seen the accounts of Bishop Burnet and of the agent Cooke. Happily, however, the Italian agent employed by Henry VIII., one Peter à Ghinnuciis, the Vimercati of that day, left his papers behind him, and we are furnished with the original tariff, by which the value of the opinions of these Italian doctors and divines was estimated. "Item, to a Servite friar, when he subscribed, one crown; to a Jew, one crown; to the doctor of the Servites, two crowns; to the observant friars, two crowns; Item, to the prior of St. John's and St. Paul's, who wrote for the king's cause, fifteen crowns,"—the author was better paid than the advocate, as often happens in better times. "Item, given to John Maira, for his expense of going to Milan, and for rewarding the doctors there, thirty crowns." There is a letter also from the Bishop of Worcester to Cooke, directing that he should not promise rewards, "except to them that lived by them, to the canonists who did not use to give their opinions without a fee." The others he might get cheaper, those he must open his hand to; because, he says, the canonists, the

civilians, did not use to give an opinion without a fee. Bishop Burnet, with the native simplicity and honesty of his character, sums up all this with remarking, that these Italian doctors "must have had very prostituted consciences, when they could be hired so cheap. It is true that Cooke, in many of his letters, says, that if he had had money enough, he could get the hands of all the divines in Italy; for he found the greatest part of them were mercenary."

My lords, the descendants of those divines and doctors, I am sorry to say, have rather improved than backslidden from the virtues of their ancestors; and, accordingly, I trust your lordships will permit me to bring the tale down to the present day, and to connect the present proceeding with the divorce of Harry the Eighth's time. I trust your lordships will allow me to read to you the testimony, given in the year 1792, of a native of Italy, of distinguished family, who was employed in a diplomatic character, by an august individual, who was near being the victim of an Italian conspiracy. He published a letter; and it is evidence, I say, because it was published before the whole Italian nation in their own tongue. It states what Italian testimony is made of; and he addressed it, with his name, to the prime minister of the country, that minister enjoying the highest civil and military authority there, and being by descent a subject of the British crown—I mean General Acton. "To the dishonour of human nature," says the writer, "there is nothing at Naples so notorious as the free and public sale of false evidence. Their ordinary tariff is three or four ducats, according to the necessities of those who sell, and the occasions of those who buy it. If, then, you would support a suit, alter a will, or forge a handwriting, you have only to cast away remorse and open your purse, the shop of perjury is ever open." It poured in upon him in a full tide: he made his appeal in such words as I have now read: he and his royal master, who was implicated in the charge,

were acquitted by such an appeal; and I now repeat it, when such evidence is brought to support charges as atrocious, as ruinous, and far more incredible in themselves, than that an Italian should have suborned an agent to injure a fellow-creature.

My lords, I have been drawn aside from the observations I was making, generally, of the manner in which this case has been prepared. I pray your lordships to observe how these witnesses all act after they come into court. And the first thing that must strike an observer here, is the way in which they mend their evidence,—how one improves upon the other after an interval of time,—and how each improves, when required, upon himself. I can only proceed, my lords, in dealing with this subject of conspiracy and false swearing, by sample: but I will take the one that first strikes me; and I think it will effectually illustrate my proposition. Your lordships must remember the manner in which my learned friend, the Attorney-General, opened the case of Mahomet, the dancer. Again, I take his own words: "A man of the most brutal and depraved habits, who at the Villa d'Este exhibited the greatest indecencies at various times, in the presence of her Majesty and Bergami,—exhibitions which are too disgusting to be more than alluded to,—the most indecent attempts to imitate the sexual intercourse. This person deserves not the name of a man," said the Attorney-General. Now, my lords, I take this instance, because it proves the proposition which I was stating to your lordships, better, perhaps, than any other. All show it, to a degree; but this, best of all; because I have shown your lordships how careful the Attorney-General is in opening the case, and how strong his expressions are; consequently, he felt the importance of this fact; he was aware how damaging it would be to the Queen; he knew it was important to state this, and he felt determined not to be disappointed when he had once and again failed. He brought three witnesses; and if one

would not swear the first time, he brought him again. Now, my lords, if I show the symptoms of mending and patching in one part of such a case, it operates as volumes against the whole of that case; if your lordships find it here, you may guess it is not wanting elsewhere. But here it is most manifestly to be seen. Your lordships plainly perceived what it was that these witnesses were intended and expected to say. You no sooner heard the first question put,—you no sooner heard the grossly leading questions with which the Solicitor-General followed it,—than you must have known it was expected that an indecent act would be sworn to, —that an exhibition would be sworn to of the most gross and indecent description; and one part of the evidence I can hardly recount to your lordships. Now see, my lords, how the first witness swore; this is their first and main witness, who is brought to prove their whole case,—Majocchi. He will only allow,—and this is the first stage in which this deity of theirs is brought before your lordships,—he will only allow it was a dance. "Did you observe anything else?"—the usual answer, "*Non mi ricordo;*" but "if there was, I have not seen it," and "I do not know." "Was anything done by Mahomet, upon that occasion, with any part of his dress?" says the Solicitor-General, evidently speaking from what he had before him written down—"He made use of the linen of his large pantaloons." "How did he use his trousers? Did he do anything with the linen of his pantaloons or trousers?"—"His trousers were always in the same state as usual." Here, then, was a complete failure,—no shadow of proof of those mysteries which this witness was expected to divulge. This was when he was examined on the Tuesday. On the Friday, with the interval of two days,—and your lordships, for reasons best known to yourselves, but which must have been bottomed in justice guided by wisdom,—wisdom never more seen or better evidenced than in varying the course of conduct, and adapting to

new circumstances the actions we perform—wisdom which will not, if it be perfect in its kind, and absolute in its degree, ever sustain any loss by the deviation—for this reason alone, in order that injustice might not be done (for what, in one case, may be injurious to a defendant, may be expected mainly to assist a defendant in another)—your lordships, not with a view to injure the Queen,—your lordships, with a view to further, not to frustrate, the ends of justice,—allowed the evidence to be printed, which afforded to the witnesses, if they wished it, means of mending and improving upon their testimony. Your lordships allowed this no doubt solely with the intention of gaining for the Queen that unanimous verdict, which the country has pronounced in her favour, by looking at the case against her; your lordships, however, whatever might be your motive, did, in point of fact, allow all the evidence against her to be published from day to day. Accordingly, about two days intervened between Majocchi's evidence and the evidence of Birollo; during which time Birollo had access to Majocchi's deposition, as well as to his person; and it is no little assistance, if we have not only access to the witness, but to his testimony; because he may forget what he has sworn, and it is something that he himself, as well as the second, the following, the mending, the patching witness, should see the story first told. Accordingly, with the facility which this gave him, forward Birollo comes, after two days' interval, and improves upon the story. From a dance, and from the usual handling, or ordinary use of the trousers, he first makes a rotolo or roll. The witness then begins to hint at some indecency; but he does not mention it. He starts and draws back.—For my part, he says, I cannot tell what he meant; and then he adds something, which he, in his own wicked imagination, might think indecent, but he is forced to admit he does not know what it meant. But, on the Wednesday following, a third witness comes, the second of the patchers, and he finishes

it altogether. He improves even upon Birollo; and he tells you, in plain, downright terms, that which I have a right to say is, because I can prove it to be, false,—which I have a right to say, before proving it, is false; because I know the same dance was witnessed by wives and daughters, as modest and pure as any of your lordships have the happiness of possessing—by wives and daughters of your lordships in those countries.

Now, another improvement, and mending, and patching, suffer me, my lords, to advert to; for it runs through the whole case. I do not even stop to offer any comment upon the *non mi ricordo* of Majocchi; nor on the extraordinary fact of that answer being regularly dropped by the other witnesses, as soon as the impression which the repetition had made on the public mind was fully understood; but I wish to call your lordships' attention to the more important point of money. No sooner had Gargiuolo the captain, and Paturzo the mate of the polacca, proved that they were brought here by sums so disproportioned to the service, by sums so infinitely beyond even the most ample remuneration for their work; that they were bribed by sums such as Italians in their situation never dreamed of,—no sooner had this fact dropped out, than one and all of them are turned into disinterested witnesses, not one of whom ever received a shilling by way of compensation for what they did. "Half-a-crown a-day for the loss of my time, my travelling expenses, and a few stivers to feed my family!" The expectation of his expenses being paid, began in the instance of the cook, Birollo. He told you he had nothing at all but his trouble for coming here. "Do you expect nothing?" —"I hope to go soon home to find my master." The cook at first was offered and refused money. The others had nothing offered; Demont nothing! Sacchi nothing! though true, he, a courier, turns out to be a man of large property, and says, "Thank God! I have always been in easy circumstances;"—thank God!

with a pious gratitude truly edifying. A man who must have a servant of his own,—who had one in England,—who must live here at the expense of four or five hundred pounds a-year, which is equal to fourteen or fifteen hundred in Italy,—goes to be a courier, is angry at being turned off, and is anxious to return to that situation! I believe the captain and the mate. They avowed that what they had was enormous payment; and the other witnesses, hearing of the effect of that confession, have, one and all, denied having received anything, and would not even confess that they had any expectations for the future.

The last of these general observations with which I shall trouble your lordships, and which I own I think your lordships must have been impatient I should come to, regards the great blanks among the witnesses for the prosecution,—I mean, the fewness of those witnesses compared with what their own testimony, and their own statement that introduced it, show your lordships the advocates of the Bill ought to have called. My lords, I conjure you to attend to this circumstance, for it is a most important point in the whole of the case. I say that if I had not another argument to urge, I should stand confidently upon this ground. If the case were as ordinary as it is extravagant,—if it were as probable as it is loaded in every feature with the grossest improbabilities,—if it were as much in the common course of human events, that such occurrences as those which have been alleged should have happened, as it is the very reverse,—I should still stand confidently and firmly upon that part of the case to which I have now happily arrived. I know, my lords, that it is bold; I know that it is bold even to rashness, to say so much of any point before I have begun even to hint at it; but I feel so perfectly, so intimately convinced, that in such a case as the present, the circumstance to which I refer ought to be fatal to the Bill before your lordships, that I consider myself as even

acting prudently, in declaring by anticipation, what I held to be its character.

My lords, the Attorney-General told us, that there were rumours at Naples pointing to reasons why the Queen's ladies left her; it turned out, that instead of leaving her, one had joined her at Naples, one had joined her at Leghorn, and another at Genoa afterwards; but my learned friend said that one left her, and one or two others stayed behind, and rumours were not wanting that their doing so was owing to the impropriety of her Majesty's conduct. Rumours! My learned friend may say, that these were rumours which he was unable to prove. But if they were rumours which had any foundation whatever; if they were such rumours as my learned friend had a right to allude to (even if he had a right to refer to rumour at all, which I deny); if there was a shadow of foundation for those rumours; why did he not call the obvious witnesses to prove it? Where were those ladies, women of high rank and elevated station in society, well known in their own country, loved, esteemed, and respected, as women upon whose character not a vestige of imputation has ever rested,—women of talents as well as character,—the very persons to have brought forward, if he had dared bring them forward—why were all of these kept back, each of whom formed the very signal, and I had almost said extravagant, contrast to all the witnesses, but two, whom my learned friend did venture to call to your lordships' bar? Why were these noble ladies not produced to your lordships? Why had not your lordships, why had not we, the benefit of having the case proved against us, in the manner in which any judge sitting at the Old Bailey would command, upon pain of an acquittal, any prosecutor to prove his charge against any ordinary felon? Certainly they were in our employment; they were in some way connected with our interest; they received salaries from the Queen, and might be supposed to be

amicably disposed towards her. My lords, is there in all that the shadow of a shade of a reason why they should not have been adduced? I am not speaking in a civil action. I am not dealing with a plaintiff's case, in a suit upon a bill of exchange for twenty pounds. I am not even speaking in a case of misdemeanour, or a case of felony, or the highest crime known in the law, between which and the act alleged to have been committed by my illustrious client it is difficult to draw even a technical distinction. But I stand here on a Bill of Pains and Penalties, which your lordships are not bound to pass; which you may give the go-by to; which you are not bound to say aye or no to. Your lordships are not sitting as commissioners of Oyer and Terminer to try a case of high treason. Gracious God! is this a cause in which the prosecutor is to be allowed to bring forward half a case? Is this an occasion on which the prosecutor shall be allowed to say, "These witnesses I will not call. True it is, they are the best. True it is, that they are respectable; and that they are unimpeachable, no man can deny. If they swear against the Queen, she is utterly undone. But I will not call them. I will leave them for you to call. They are not my witnesses, but yours. You may call them. They come from your vicinity. They are not tenants of Cotton Garden, and therefore I dare not, I will not produce them; but when you call them, we shall see what they state; and if you do not call them"—in the name of justice, what? Say!—Say!—For shame, in this temple—this highest temple of justice, to have her most sacred rules so profaned, that I am to be condemned in the plenitude of proof, if guilt is; that I am to be condemned, unless I run counter to the presumption which bears sway in all courts of justice, that I am innocent until I am proved guilty; and that my case is to be considered as utterly ruined, unless I call my adversary's witnesses!—Oh most monstrous!—most incredible!—My lords, my lords! if you mean ever to show the face of those

symbols by which Justice is known to your country, without making them stand an eternal condemnation of yourselves, I call upon you instantly to dismiss this case, and for this single reason; and I will say not another word upon the subject.*

Having gone over the general features of this portentous case, I am now to solicit the attention of your lordships, and I am afraid at greater length than anything could justify but the unparalleled importance of the occasion, to a consideration more in detail, of the evidence by which it has been supported. And, in point of time, as indeed of importance, the first figure that was presented to your lordships in the group, must naturally have arisen to your recollection the moment I announced my intention of touching upon the merits of the different witnesses—I mean Theodore Majocchi, of happy memory, who will be long known in this country, and everywhere else, much after the manner in which ancient sages have reached our day, whose names are lost in the celebrity of the little saying by which each is now distinguished by mankind, and in which they were known to have embodied the practical result of their own experience and wisdom; and, as long as those words which he so often used in the practice of that art and skill which he had acquired by long experience and much care,—as long as those words shall be known among men, the image of Majocchi, without naming him, will arise to their remembrance. My lords, this person is a witness of great importance; he was the first called, and the latest examined; beginning with the case, continuing by it, and accompanying it throughout. His evidence almost extended over the whole of the period through which

* An adjournment of half an hour at this part gave the Queen's Counsel an opportunity of considering whether they might not rely upon the impression made by the point just taken, and withdraw. But it was resolved to go on.

the case and the charge itself extends. If indeed you believe him, he was only dismissed, or rather retired from the Queen's service, and refused to be taken back, about the time when the transactions in the charge closed. He and Demont stand aloof from the rest of the witnesses, and resemble each other in this particular, that they go through the whole case. They are, indeed, the great witnesses to prove it; they are emphatically the witnesses for the Bill, the others being only confirmatory of them; but as willing witnesses are wont to do,—as those who have received much and been promised more, may be expected to do—they were zealous on behalf of their employers, and did not stop short of the two main witnesses, but they each carried the case a great deal farther. This is, generally, with a view to their relative importance, the character of all the witnesses.

Now, only let me entreat your lordships' attention, while I enter on this branch of the subject a little more in detail. I have often heard it remarked, that the great prevailing feature of Majocchi's evidence,—his want of recollection,—signifies, in truth, but little; because a man may forget,—memories differ. I grant that they do. Memory differs, as well as honesty, in man. I do not deny that. But I think I shall succeed in showing your lordships, that there is a sort of memory utterly inconsistent with any degree of honesty in any man, which I can figure to myself. But why do I talk of fancy? for I have only to recollect Majocchi; and I know cases, in which I defy the wit of man to conceive stronger or more palpable instances of false swearing than may be conveyed to the hearers and to the court in the remarkable words, "*Non mi ricordo*,—I do not remember." I will not detain your lordships, by pointing out cases, where the answer, "I do not remember," would be innocent, where it might be meritorious, where it might be confirmatory of his evidence, and a support to his credit. Neither need I adduce cases where such an answer

would be the reverse of this,—where it would be destructive to his credit, and the utter demolition of his testimony. I will not quote any of those cases. I shall content myself with taking the evidence of Majocchi as it stands; for if I had been lecturing on evidence, I should have said, as the innocent forgetfulness is familiar to every man, so is the guilty forgetfulness; and in giving an instance, I should just have found it all in Majocchi's actual evidence.

At once, then, to give your lordships proof positive that this man is perjured,—proof which I shall show to be positive, from his mode of forgetting.—In the first place, I beg your lordships' attention to the way in which this witness swore hardily in chief, eke as hardily in cross-examination, to the position of the rooms of her Majesty and Bergami. The great object of the Attorney-General, as shown by his opening, was that for which the previous concoction of this plan by these witnesses had prepared him; namely, to prove the position of the Queen's and Bergami's rooms always to have been favourable to the commission of adultery, by showing that they were near, and had a mutual communication; whereas, the rooms of all the rest of the suite were distant and cut off; and the second part of that statement was just as essential as the first, to make it the foundation of an inference of guilt, which it was meant to support. Accordingly, the first witness, who was to go over their whole case, appears to have been better prepared on this point, than any ten that followed; he showed more memory of inferences,—more forgetfulness of details,—perfect recollection to attack the Queen,—utter forgetfulness to protect himself from the sifting of a cross-examination. "Where did the Queen and Bergami sleep?"—"Her Majesty slept in an apartment near that of Bergami." "Were those apartments near or remote?" for it was often so good a thing to get them near and communicating with each other, that it was pressed again and again. "Where were the rest of the suite; were they distant or near?"

says the Solicitor-General. This was at Naples; and this is a specimen of the rest,—for more was made of that proximity at Naples than anywhere else,—"Were they near or distant?"—"They were apart." The word in Italian was *lontano*, which was interpreted "apart." I remarked, however, at the time, that it meant "distant," and distant it meant, or it meant nothing. Here, then, the witness had sworn distinctly, from his positive recollection, and had staked his credit on the truth of a fact, and also of his recollection of it,—upon this fact, whether or not the Queen's room was near Bergami's, with a communication? But no less had he put his credit upon this other branch of his statement, essential as the first, in order to make both combined the foundation of a charge of criminal intercourse, "that the rest of the suite were lodged apart and distant." There is an end, then, of innocent forgetfulness, if, when I come to ask where the rest slept, he either tells me, "I do not know," or "I do not recollect;" because he had known and must have recollected, when he presumed to say to my learned friends, these two rooms were *alone* of all the apartments near and connected, that the others were distant and apart; when he said that, he affirmed at once his recollection of the proximity of those rooms and his recollection of the remoteness of the others. He swore that at first, and afterwards said, "I know not," or "I recollect not," and perjured himself as plainly as if he had told your lordships one day that he saw a person, and the next said he never saw him in his life; the one is not a more gross or diametrical contradiction than the other. Trace him, my lords, in his recollection and forgetfulness,—observe where he remembers and where he forgets,—and you will find the same conclusion following you everywhere, and forcing upon you the same conviction. I will give one specimen from the evidence itself, to show your lordships he has no lack of memory when it is to suit his purpose; when it is to prove a story where he has

learned his lesson, and when he is examined in chief. When, in short, he knows who is dealing with him, and is only anxious to carry on the attack, I will show your lordships what his recollection is made of. You shall have a fair sample of his recollection here. I asked him, "Have you ever seen the villa d'Este since the time you came back from the long voyage?" He had been examined in chief upon this, and had stated distinctly, with respect to the villa d'Este, the state of the rooms; and I wanted to show the accuracy of his recollection on those parts where he was well drilled, —"Have you ever seen the villa d'Este since the time you came back from the long voyage?"—"I have." "Was the position of the rooms the same as it had been before, with respect to the Queen and Bergami?"—"They were not in the same situation as before." Then the witness gives a very minute particular of the alterations. A small corridor was on one side of the Princess's room on her return. "Was there a sitting room on the other side of it, not opposite, but on one of the other sides of it?" Now attend, my lords, to the particularity,—"There was a small corridor, on the left of which there was a door that led into the room of the Princess, which was only locked; and then going a little farther on in the corridor, there was on the left hand a small room, and opposite to this small room there was another door which led into the room where they supped in the evening. There was this supping-room on the right, there was a door which led into Bergami's room, and on the same right hand of the same room there was a small alcove, where there was a bed of Bartolomeo Bergami." Again: "How many doors were there in the small sitting-room where they supped?"—"I saw two doors open always, but there was a third stopped by a picture." "Where did her Royal Highness's maid sleep?"—"On the other side, in another apartment." Now, my lords, can any recollection be more minute, more accurate, more perfect in every respect, than Majocchi's recollection is

of all these minute details, which he thinks it subservient to his purpose to give distinctly, be they true or be they not? I do not deny them,—my case is, that much of what is true is brought forward; but they graft falsehood on it. If an individual were to invent a story entirely; if he were to form it completely of falsehoods; the result would be his inevitable detection; but if he build a structure of falsehood on the foundation of a little truth, he may raise a tale which, with a good deal of drilling, may put an honest man's life, or an illustrious princess's reputation, in jeopardy. If the whole edifice, from top to bottom, should be built on fiction, it is sure to fall; but if it be built on a mixture of facts, it may put any honest man's life or reputation in peril. Now, I only wish your lordships to contrast his accuracy of recollection upon this subject, and upon many other points,—a few of which I shall give you specimens of,—with his not having the slightest recollection of a whole new wing having been added to the Princess's villa. He recollects the smallest alteration of a bed-room or a door; but he has not the very least recollection of the throwing out a new wing to the house. This memory of his at the least is a capricious memory. But I will show your lordships that it is a dishonest one also. Of the same nature is his evidence, when any calculation of time is required. He observes the most trifling distinction of time when it suits his purpose; and he recollects nothing of time when it is inconvenient for his object. In proof of this, I request your lordships to refer again to the celebrated scene at Naples. There this witness remembers down to minutes, the exact time which her Majesty passes, upon two occasions, in Bergami's room; upon the first occasion, she remains from ten to fifteen minutes; on the second, from fifteen to eighteen minutes; that is to say, taking the medium, sixteen and a-half minutes, true time. Upon another occasion he tells you an affair lasted a quarter of an hour. Upon a third occasion he

fired a gun, and then altogether fifteen minutes elapse, —a quarter of an hour there. He is equally accurate about three quarters of an hour in another instance; that is at Genoa, which I have spoken of before. The other instance was on the voyage. All this fulness of memory—this complete accuracy as to time—was in answer to my learned friend; all this was in the examination in chief; all this was thought by the witness essential to his story; all this garnished the detail of which the story is made up, and gave it that appearance of accuracy which was essential to the witness's purpose. But when it was my turn to question—when I came to ask him the time, and when the answer would be of use to the Queen; when it was of use, not to the prosecution, but to the defence—see how totally he is lost! Then he does not know whether they travelled all night,—whether they travelled for four hours or eight hours. In answer to a question upon that subject, he says, "I had no watch, I do not know the length of time." No watch! Possibly. And do not know the length of time! Very likely. But had you a watch when you saw the Queen go into the room of Bergami? Do you accidentally know the time when it suited your purpose to know, to a minute? Why know the precise time so accurately on one occasion, and be so totally ignorant of it on another? He pleads the want of a watch only when it would suit the purpose of the defence, and bring out the truth; or, what comes to the same thing, would convict himself, were he to know the time. With respect to the category of numbers, he cannot tell whether there were two or two-and-twenty sailors aboard the polacca. He cannot tell more with respect to place, that other category of his deposition. Although he slept in the hold, he does not know where the others slept; he cannot tell where they were by night or by day; he knows perhaps that they were on deck in the day, but he cannot say where

they were at night. In short, I ask your lordships, whether a witness with a more flexible and convenient memory ever appeared in a court of justice?

But this is not all, my lords. There is much in the evidence of this man, in which the answer, "I do not recollect," or, "I do not know," cannot, by possibility, be true, if the answers given in the examination in chief be true: as in the first instance at Naples which I gave you. If the minute particulars sworn to in his examination in chief were true, and founded in fact, it is impossible that he should have no recollection of the matters to which he was cross-examined. If it was true that the rooms and doors were as he described them, he could not, by possibility, know and recollect that fact, and yet be in total ignorance of the other parts of the house. In the same manner, when I examine him respecting Mr. Hughes, a banker's clerk at Bristol, he knows nothing of the name—nothing of his being a banker's clerk—never knew a banker's clerk—has no recollection of him. But when he sees that I have got hold of a letter of his which he knew nothing about at first, and which he perhaps forgot having committed himself by; the moment he sees that, and before I ask him a single word to refresh his memory, you plainly see by his demeanour and the tone of his answer, that he had never forgotten Mr. Hughes at all, and that he never had forgotten his being a banker's clerk. "Oh!" he says, "I was in the habit of calling him brother, it was a joke on account of the familiarity in which we were." Thus it appears, that the familiarity makes him forget a man of that kind, although he says that familiarity was the ground of his calling him familiarly and habitually brother. It was manifest that Majocchi was not very well pleased to recollect all that passed in that family, he being a married man, and having made a proposal of marriage to a female there, which he attempted to laugh off, with what success, I leave

your lordships to judge. He was not willing to recollect the name, or trade, or connection with that family, until he knew that all was known.

But, my lords, before we have done with Majocchi, we have other instances of that extraordinary instrument, as it has been called, I mean memory; we have other instances of the caprices of which it is susceptible. Your lordships recollect the shuffling, prevaricating answers he gave respecting the receipt of money. He first said he had received money from Lord Stewart to carry him to Milan. He afterwards, twice over, swore he never received money at Vienna from any person. Then comes the answer which I can only give in his own words; for none other will convey an adequate idea of his style. He says, "I remember to have received no money when I arrived at Milan; I remember I did not: '*non so;*' I do not know; '*più no che si;*' more no than yes; '*non mi ricordo;*' I do not remember."

Now, my lords, I have a little guess what sort of an evidence this Majocchi gave when he was laying the foundation of that favour which he has since uninterruptedly enjoyed in the councils of our adversaries, I mean, the Attorney and Solicitor-General. When, during his previous examination, he was laying these foundations, deep and wide, upon which his fortune was to be built, your lordships will perceive, that he recollected a great deal which he is now ignorant of. In the opening speech of my learned friend much was stated which this witness was expected to prove, and of which I have before given your lordships an instance or two, and which I will not repeat further than to remind your lordships that Majocchi was to have proved the kissing in the room between that of the Princess and Bergami at Naples. On the contrary, the witness negatives it in the completest manner, by his saying it was only "whispering," and not kissing. This single instance shows the whole character of this

man's testimony; but I will remind your lordships of one or two others, not so striking from the nature of them, but just as fatal to the credit of the witness; because they all show, that he had told one story to the instructors of my learned friends, a story recorded in the briefs from which they put their questions, and another story to your lordships. When questioned here as to those points, he was staggered for some reason, possibly from knowing the facts and documents which I had got in my possession, but more probably from having forgotten part of his story. This is just one of the means by which to detect a contrived plot. Such partial forgetfulness is much more likely to take place, where the whole is an invention, than where there is truth at the foundation of the testimony. So it is in this case. Majocchi recollects part of his testimony. "Yes," is ready for the question: but parts of it he does not recollect. For it is perfectly evident, that what a person has actually seen is more intensely impressed on his mind, and more firmly retained in his recollection, than what he has invented and imagined. I am referring, my lords, to the Solicitor-General's examination of Majocchi. He is asked, "Did you bring Bergami any broth?"—"Often," is the answer. He then states, that he was ordered to sleep in a cabinet adjoining Bergami's room, and that when there, pretending to be asleep, the Princess passed through to the room of Bergami; and then he is asked, "After the Princess had entered the bed-room of Bergami, did you hear any conversation?"—That would have been enough; it is not a leading question, but it would have been enough to make the witness recollect; but conversation was not what my learned friend was after; "Did you hear any conversation, *or anything else*?" That was a broad hint. The man had said something before, which had been taken down, and was in my learned friend's hand. Now, there was something there which he had said before elsewhere, and my

learned friend wanted to get that out here. If it had been true, why should not the man recollect it? But he forgot it. He forgot part of his own invention; a situation to which a certain class of men, that I shall not now mention, are often exposed—a class whom the old proverb advises to have good memories. So my learned friend, skilfully enough, said, "Did you hear any conversation, *or anything else,* pass between them?" "Only some whispers." Now, do your lordships want to know whether my learned friend meant whispering—I say, No. I say, I read as much as if I saw the printed paper which was in his hand.* My learned friend, the Attorney-General, had opened very differently: but, besides, from the examination of the Solicitor-General, it is evident, that by his "*something else,*" more than whispering was expected to come out, had the witness taken the hint. If Majocchi had never before said, that something more than whispering had passed between the parties, my learned friend would have been satisfied. But he proceeds to ask him, "Do you recollect having heard or observed anything when the Princess was in Bergami's room the second time?"—"Whispering conversation," says he again. Another instance of the same sort occurs, and I hope it will not be thought too minute to go into it; for it is only in this way that conspiracies are detected, that perjury is exposed, that wickedness is disappointed. My lords, there was a story told about the Princess riding upon an ass. "At Genoa, you saw her royal highness riding on an ass?"—"Yes." There was a great deal more in his former statement than he dared say now. "Did you, upon these occasions, make any observations as to anything that passed between the Princess and Bergami?"—"Yes." My learned friend thought he was quite secure there. It is not a thing that happens every day to see a Princess of Wales

* The Briefs of the Crown counsel were all printed at a private press, being drawn from the Collections of the Milan Commission.

riding about on an ass. "State what passed at the time she was riding on an ass."—"He took her round her waist to put her upon the ass." My learned friend thought he was safe landed. "What else?"—"He held her."—Aye, that will do very well; a great deal may be done with the word "holding;" a great deal depends on the tenure—"He held her hand lest her royal highness should fall." Ah! that won't do. My learned friend is not satisfied with that. Indeed, he must have been satisfied easily, if that had contented him. But, having something in his hand which the witness had sworn to before—convinced it must be brought to his recollection again—not knowing he was trying to do a very difficult thing, namely, to make a false swearer recollect his fiction, but, trying, as he thought, to make a true man recollect what he had actually seen, my learned friend proceeded—"Did you make any other observation?"—"I have made no other observation; they spoke; they discoursed." The failure of my learned friend was thus complete. And there are a number of anecdotes of the same sort—the breakfast at the Benedictine convent, and other things, which were equally inventions, with this difference, that, as always happens to men engaged in such a vile concern, they forget parts that are just as specific and clear as the parts they recollect; and which, if they had been true, they would have recollected just as well.

I might remind your lordships, upon this head of Majocchi's evidence, of the incredible nature of his story respecting what took place at Naples. He would have you to believe, that having free access to the bed-room of Bergami, through other rooms in which no persons slept, which free access, he was compelled, after repeated prevarications, much equivocal swearing, and several positive denials, at length to admit, on a very pressing examination,—that having this secret, easy, safe access to that place of guilt, the bed-room of Bergami, the Princess preferred the other way, through

the room where she knew Majocchi slept, where she saw that he slept in a bed without curtains, in a room so small that she could not go through it without almost touching his bed,—in a room too in which there was a fire to give light, and show her passing through it. But, what is the most monstrous thing of all, he tells you that Her Majesty, in order to make her detection inevitable, as she passed through the room, went to the bed and looked him in the face, to ascertain whether or not he was asleep! Now, this story defeats itself, and discredits the teller. You cannot believe it; no! it carries its own refutation along with it. What, my lords! are you to suppose that Her Majesty voluntarily passed through a room where she must have been seen if the person was awake, when she knew she might have gone another way, where she could not possibly have been seen? She knew, that Majocchi slept in that room,—she knew the disposition of his bed,—she knew that there was a fire kept in the room—knowing all this, she voluntarily passed through it, stopping in her way to look the witness straight in the face, and make her detection certain if he chanced to be awake! My lords, I say that this is a plain invention, an invention natural enough to come into the head of a person who lives in a country where nightly robberies are committed. I will not say that this witness is a person who had known more nearly that offence, and the precautions taken by those who commit it; but he, at least, was surrounded by adepts in the art, and we generally find in stories of robbers, that identical particular inserted. The robber comes to the bed of the lady and looks with a candle near her face, to ascertain whether she is asleep. If she is asleep, it is all well and safe; but if she is awake, and might give the alarm, he does not care about the alarm, and coolly retires. It is very wise and prudent in the robber to take this precaution, to which he adds that of a dark lantern. But, for a person who is going to commit adultery in

the next room, whose face is as well known to the man in bed as any face that can be shown, to go up to his bed-side with a candle, and not a dark lantern, in order to discover whether he is asleep or not, is a proceeding altogether incredible. To what would not the simple fact of Her Majesty having been seen in that room, under such circumstances, have exposed her? Would not the fact of being detected looking in the face of Majocchi, have of itself condemned her? The tale is most monstrous, most incredible. But it is providentially and most happily ordained, for the detection of guilt, and the justification of innocence, that such inventions are often thoughtlessly devised and carelessly put together; and in this instance there has been but little caution used in putting together the materials, which have been very thoughtlessly cast.

Now, my lords, I wish, before I close my observations on these stories, that I might recall to your lordships' attention what this witness has said on another point. He told you, that Bergami began to dine at the table of the Princess at Genoa, when it is notorious that he did not begin to dine with her until some months afterwards. I might recall to your lordships' attention that, in speaking of the night-scene at Genoa, he does not recollect Vinescati, the courier, arriving: he even says, as the thing is much mixed up with fiction, he had forgotten it, and he did not remember his arrival at all. "Do you remember at any time of the night, knocking at the door of Bergami's bed-room, and endeavouring to wake him?"—"I do remember." "Upon what occasion was that? For what purpose?"—"It was in the night when Vinescati came, and I went to knock." Then, recollecting the contradiction he had fallen into, he said, it was not the night Vinescati arrived, but the night thieves got into the house; and then he drops the courier altogether.

But I come to what happened late in the day. Your lordships recollect the account this witness gave

of his leaving the service of Her Majesty, an account which contains as much gross and deliberate falsehood as ever polluted the air within the walls of a court of justice. And allow me here, my lords, to observe, that where you see one material part of a person's evidence grossly and palpably false, it dispenses with the necessity of going more into detail, and relieves us from the necessity of proving him a perjurer throughout; the whole of his evidence is discredited; nothing that falls from the lips of a perjured man ought to be entertained; all must be rejected. My lords, in giving you an account of his quitting the service of the Princess, the witness thought it necessary, in order to raise his character, I suppose, to flourish about the cause of his leaving Her Royal Highness. He denied that he had been dismissed by her. He said that he left the service, because he did not like the bad people by whom she was surrounded. This he said, for the double purpose of raising his own credit, and debasing the Queen's, and vilifying the society by which she was surrounded. But, my lords, this story is false; and I will show the falsehood from his own mouth. When a question was put to him, "Did you apply to be taken back?" what was his answer? "I do not recollect." Here, my lords, you see how he defends and protects himself; for if he had answered, No, he knew we might have called a witness who would have convicted him at once. He was then asked, "Did you ever apply to Schiavini to make interest for your being taken back?" He answers, "Once I did." Now, a man might have recollected that, after being told, and might innocently have forgotten in answer to the first question; but then he would not have immediately recollected all the circumstances; for, the moment that string was touched, his recollection was entire, his forgetfulness quitted him, and he told us the whole history of the transaction; and a very material thing it is for your lordships to attend to. He said, "Yes, yes," *Si, si*, was his ex-

pression; but it was in a sort of joke, "I made the application in joke." That may be so; but if he did not make it in joke, he has perjured himself; if he did make this application in joke, to what follows he must have answered, No. "Did you, or did you not make repeated applications to Hieronimus also to be taken back into her Royal Highness's service?" This could not be all a joke; you could not have joked with several persons on the same string. "*Non mi ricordo,*" "this I do not remember." Now, I say, my lords, that either this last "*Non mi ricordo*" is gross and wilful perjury, or the first story is gross and wilful perjury, that he left the Queen from his horror of the bad people by whom she was surrounded, and that he made his application to Schiavini in pure joke. There is no way out of this dilemma. The two stories are utterly inconsistent. But your lordships recollect the way in which he told you that he never wished to go back to the service. It was done with a certain flourish and figure. He said with some indignation, "Rather than go to serve her Royal Highness, on account of the persons that are about her, I will go and eat grass." I ask your lordships, is that the saying of a true or a false man, when he pretends that he would rather eat grass than go back to a house, where he made one application which he pretends to have been a joke, and afterwards will not swear he did not make several applications to get back to the same bad house? My lords, here, I say, is developed the whole mystery of Majocchi and his *non mi ricordo.* This was his protection and his shelter. I say that rank falsehood appears on the face of this part of the evidence, take it the one way or the other; and I care not which of the two branches of the alternative is adopted.

I now wish to call the attention of your lordships, for a moment, to the next witnesses; but it shall only be for a moment; because I have already anticipated, in great part, what I had to say of them; I mean those

well-paid swearers, the captain and the mate of the polacca. First, as to the mate, there is something in the demeanour of a witness more consonant to a candid and true story, than the pertness with which that person answered several questions; and all those who have been accustomed to see witnesses in a court of justice know, that those who are stating falsehoods are extremely apt to give flippant and impertinent answers. The mate of the polacca is precisely a witness of this kind. Upon being asked, "Was the little gun you spoke of, upon the deck?" he answers, "On the deck; we could not carry it in our pocket." I only mention this, because my learned friend the Solicitor-General has said, that he is a witness of great credit. Again, when asked, "How did you travel from Naples to Milan?" he answers, "In a carriage; I could not go on foot." I only state this to remind your lordships of the manner of the witness, which I should not do if he had not been said to be a witness of the most perfectly correct demeanour on the present occasion. But I proceed to the substance of his evidence: I will venture to say, that a better paid witness, a better paid Italian, for any work or labour, has never yet come to your knowledge. He is paid at the rate of £2,000 sterling a-year; he was the mate in that voyage of a trading vessel in the Mediterranean, and he is now the fourth part owner of a vessel upon his own account. So that to give him a sum in proportion to what he makes when at home—to make it a compensation instead of a reward, according to the Right Reverend Prelate's learned interpretation—that vessel must earn £8,000 a-year; which is somewhat above an income of from sixteen to eighteen thousand pounds in this country. There is not a ship-owner in all Messina, that makes half the money by all the ships he has of his own proper goods and chattels. In that country, a man of two or three or four hundred pounds a-year is a rich man. Fifteen hundred pounds a-year is a property

possessed by none, except the great nobility. Clear profits of £8,000 a-year there!—Their names would resound over all Italy as the rich of the earth; and not a man of consequence could have gone from this country to that, who would not have tried to procure letters of recommendation to them. The Cobbler of Messina has lived in history; but in his time he was not so well known as these two paltry shippers would be, if, instead of dealing out the instrument he did, these men kept their palaces and spent their four thousand a-year. And this is his story; and if he does not mean so much as this, so much the better in another way; for then is he wholly perjured.

My lords, the captain of the vessel, as might be expected, is paid at a much higher rate than the mate. He is paid £2,400 a-year; he is fed, lodged, and maintained; every expense is defrayed, and this put into his pocket, and not for the loss of any profits. I have hitherto been considering it as a compensation for the loss of his profits. But his ship is not here; to use the mate's own mode of speech, he did not bring it here in his pocket; though the owner comes to England, the ship is employed in the Mediterranean, and earning her freight; and he is paid this, though he attempts to deny it,—he is paid this as a recompense and not as a compensation. The same argument then applies to the captain as to the mate, but in a greater degree, and I shall not go through it. But, it appears there was a cause of quarrel between the captain and the Princess of Wales. He tells you, with some *naïveté*, that what he had for himself, his mate, and the other twenty men of his crew, and for all his trouble, was a sum considerably less, about a fourth part less, than he receives now for coming over to swear in this business against his ancient freighter. But your lordships recollect what he added to that. He said, "When we take on board royal personages, we trust more to the uncertain than to the certain profits." This is a great truth, well

known to many present, that something certain is often stipulated for, but that something more is often given by way of honorary and voluntary compensation. Then, my lords, I only stop here for one moment, to remind your lordships, that according to this, his expectation is not limited to what he gets, namely, £2,400 a-year, for coming here to swear against the Queen; but he says he has been employed by a royal person; and he tells your lordships that the ascertained compensation bore no proportion to the voluntary reward which he expected from Her Majesty. How much less then has he a right to limit the bounty of her illustrious husband, or of the servants of His Majesty, who have brought him here, if he serves them faithfully, if the case in his hands come safe through, and if no accident happens! If he should succeed in all this, he would then get what would make a mere joke of the £2,400 a-year; though that would be infinitely greater than any shipper ever earned by the employment of his vessel in the Mediterranean Sea.

But independent of the hope of reward, there is another inducement operating on the mind of this witness from another quarter. Is there no spite to gratify? The whole of his testimony, my lords, is bottomed on revenge. I have a right to say this, because he has told me so himself. He has distinctly sworn that he had a quarrel with Bergami, the Queen's chamberlain, whose business it was to pay him the money; and that he complained to his own ambassador, that Bergami had kept back from him £1,300 which he claimed. What happened then? "I have made some application, some demand. When I came here last year, I gave a memorial to my ambassador, Count de Ludolph, and I stated, that as I believed myself to have served the British government, because I had had the honour of bearing the English flag, I expected the present which I had not received; and on account of this memorial which I gave to Count de Ludolph, the English

government have known me to be Vincenzo Gargiuolo of Naples." Now, I mention it as a circumstance which may strike different minds in different ways, but as not immaterial in any view of this case, that the only knowledge the prosecutor of this case has of this witness is, his having made a complaint against the Queen and her chamberlain, for not paying him £1,300 which he said they owed him. He added, that he had been advised to go to London to see after that sum of money. I warrant you, my lords, he does not think he is less likely to see his way clearly towards the success of his claim, in consequence of the evidence which he has given at your lordships' bar.

My lords, there are other matters in the evidence of these two men which deserve the attention of your lordships. I think that a Princess of Wales on board a vessel, sitting upon a gun, with her arms intertwined with those of her menial servant, and sometimes kissing that servant, is a circumstance not of such ordinary occurrence in the Mediterranean, as to make it likely that the captain or mate would forget the most important particulars of it. Yet they do forget, or at least they differ,—for I will not allow they forget—they differ most materially in their history of this strange matter—far more, I will venture to say, than they would differ about the particulars of any ordinary occurrence that really happened. The mate says, that the Queen and Bergami were sitting on a gun, and that they were supporting each other. In the same page, he says afterwards, they were sitting near the mainmast, the Princess sitting on Bergami's lap. Now, the difference between sitting on a gun and near the mainmast may strike your lordships as not important. I state it, because the mate considers it of importance; therefore, I conceive he has some motive for particularizing it; he means to say, I place my accuracy on these details, which I give at my peril. Accordingly he says, that when he saw the Queen on Bergami's

knees, it was not on a gun, but on a bench near the main-mast; and not one word about kissing do I see in the mate's evidence. He forgets the most important part of the whole; for which reason, your lordships will conclude with me, I think, that he does not confirm the captain. The captain swears differently. He says, "I have seen Bergami sitting on a gun, and the Princess sitting on his knees, and that they were kissing." But do they speak of the same thing? Yes, if they are to be believed at all; for the captain says immediately after, that the mate saw it as well as himself. The mate, however, never says he saw it; and my learned friends did not dare to ask him if he had ever seen it. The captain says, they saw it together; yet when the men are brought to give their evidence,—and they are brought immediately one after the other,—you see the consequence. They totally differ in their account of the story, and differ in a way clearly to show, that the story cannot be true. Now, what think your lordships of this man's desiring you to believe,—of his expecting you to believe,—that he was a man of such strictness of conduct, and his mate so pure a youth, educated in that primitive, antediluvian Garden of Eden, Naples or Messina, that when he saw a lady go near a man, not touching, observe, but leaning over the place where he was reclined,—nothing indecorous, nothing improper, nothing even light, but only leaning towards the place where he was reposing,—he immediately desired the innocent youth to go away, because, beside being his mate, and therefore, under his especial care in point of morals, by the relation of master and mate, he was moreover his distant relation, and therefore, by the ties of blood also, he had upon his conscience a responsibility for the purity of the sights which should pass before his youthful eyes, and therefore he could not allow him to remain for a moment near that part of the ship, where these two individuals were, because they appeared to be approach-

ing towards each other! Perhaps there may be those who believe all this,—who think it a likely account of the matter. Observe, my lords, he never says that the Queen ordered them to go away, or that any order to that effect came from Bergami. No. The guilty pair never interfered; they were anxious that all the crew should see them; but the virtuous Gargiuolo, reviving in the modern Mediterranean a system of morals far more pure than ever ancient Ocean saw and smiled at, "cheered with the sight," would not suffer his mate to see that which might happen, when two persons, male and female, did not touch, but were only near each other. My lords, there may be those who believe all this,—I cannot answer for men's belief—but of this I am sure, that if any one do not believe it, he must believe another thing; namely, that Gargiuolo the captain, and the mate Paturzo, speak that which is not true. There is no way out of this conclusion. Either you must believe that the captain speaks the truth, when he gives this account of his motives,—or you must believe that it is false, and that it is gratuitously false. But not gratuitous as it respects his own character. He means to set himself up by it; to earn his money the better; and, if possible, to impose upon some credulous minds by it. Perhaps he may have succeeded,—the event will show,—in making more than that uncertain gain the rate of which a man, when dealing with royalty, always increases, and in improving his chance of obtaining the £1,300 for which he has come over to this country.

My lords, one more statement of these men, and I have done with them. See how well drilled they are! I hold them up as models of well trained witnesses; I regard their perfect drilling as a perfect study for those who may practise that art. I present them as highly finished specimens of the art in its perfection; and no wonder they are well accomplished; they are the best paid; and therefore they ought to be

the choice specimens of that art. Much money has been laid out upon them, and their zeal has been in proportion to the *much* they have received, and the *more* they expect. See how well they have been trained! But happily there are limits to this art, as there are to all human inventions. If there were not, God pity those who are attacked! God pity the innocent against whom the mighty engine for tutoring witnesses, for manufacturing testimony, may be directed! They cannot perfectly get over the disadvantage of not having access to hear the evidence of each other; but see, when art can do it, how well it is done. The master and the mate are evidently descendants, lineal descendants, of the Doctors of Bologna. Whether their names are the same or similar, like those of Harry the Eighth's agent, and the chief Milan Commissioner, I know not. I have not before me the hundred and ten names of the Doctors; but that these are among their lineal descendants, no man can doubt. They are afraid to have it thought for an instant that they ever spoke to one another upon the subject of their evidence. Intimate in all other respects; living together in the Magazine of Evidence, the barrack of witnesses, in this neighbourhood; sleeping in the same room, supping together, breakfasting together the very morning before they came here, again meeting together the day after the first had been examined, and when the second was to come, for anything I know sleeping together—the only subject on which they never talked, in all the intimacy of master and mate, in all the nearness of blood and connexion, and entertaining an affection for each other that would do honour to the nearest connexion, and which I wish some of the nearest connexions, especially of a conjugal kind, had,—the only subject, I say, upon which they never chose to enter, is the subject of the inquiry which now occupies all other men,—the only subject on which all other men, save themselves alone, can converse.

My lords, this is not peculiar to these two witnesses, but the way in which they tell it is peculiar, and is not marked, on the part of the gallant captain, by the judgment and skill which usually distinguish him. "I am not a person," says he with indignation, "to state what I am obliged to say in this room,—the subject is of such a nature that it cannot be talked of."—What subject? There is nothing so frightful in this subject which you came to support, and which you have witnessed.—"No, no; but it would not be decent, it would not be creditable, that I should tell to others all those things which we say in this house, before these gentlemen, these lords." "Did you ever say anything to the mate upon it?"—"Oh, never, never!" "Did you tell Paturzo last night, or this morning, that it would not be fit for you and Paturzo to talk about his examination of yesterday?" "Yes, upon this matter."

This brings me to say a word or two relative to a circumstance in the character of all these recruits in the Cotton Garden depôt. I must say, I think that whatever injury this inquiry may do to the highest and most illustrious persons,—however pregnant it may be with everything offensive to morals and to good taste,—whatever mischiefs to the conduct of social life may arise, for some time to come, from the disgusting details brought forth in the course of this ill-omened proceeding to pollute English society; it must be matter of comfort, that there is one spot on the face of the island, one little land of Goshen, sacred from the squabbles which surround it, free from the neighbouring defilement, and that into this retired and pure society, those subjects which offend the delicate, which alarm the apprehensions of morality, which go so well nigh to contaminate the morals of all classes of the community elsewhere, never, by any mischance, penetrate; and, strange to tell, my lords, that one little spot is neither more nor less than Cotton Garden, in the vicinity of this house, inhabited by the whole host of

foreign witnesses whose depositions have spread abroad all the impurity that appals the world! Let no man, then, suppose that the danger is so great as it has been represented; or that there is any accuracy in the statement, or that there is any ground for the alarm founded upon it, that the whole island is flooded with the indecencies which issued forth from the green bag; for there is at least Cotton Garden, where the most strictly modest matron may go, without feeling, that if she carries thither the most chaste virgin, that virgin's face will ever there be suffused with a blush; for in that place, and amongst the witnesses themselves,—amongst the agents of this plot,—amongst the contrivers of it,—amongst those who appear before your lordships to give utterance to the abominations of their own fancy,—amongst them, it turns out, that there is never one whisper heard on anything even remotely connected with the subject which so much vitiates the mind, and debases, I will say, the reputation of this country everywhere else! If your lordships choose to believe this, far be it from me to interrupt an illusion so pleasing, even by giving it that name; for it is delightful to have any such spot for the mind to repose upon. If you can believe it, do so in God's name! But if you do not believe it, I say, as I said before, you must believe something else; if you do not believe it, you must believe that all the witnesses who have said so, and they are all those who are in that depôt, are perjured over and over again.

My lords, the course of my observations has now brought me to personages still more important in this case, than either the captain or the mate, although my learned friend, the Solicitor-General, has stated them to be witnesses of infinite importance,—I mean Demont and Sacchi; whom I trust I shall be excused for coupling together, united, as they appear to be, between themselves by the closest ties of friendship; resembling each other, as they do, in all the material

particulars of their history, connected at least with the present story; both living under the roof of the Queen, and enjoying her bounty and protection; both reluctantly dismissed; both soliciting to be taken back into place and favour; knit together since by the same ties of country and friendship; living together in great intimacy, both in their native mountains of Switzerland, and afterwards upon their arrival in this country; remaining in this country about the same period of time, and that above twelve months; employing themselves during those twelve months in the way best adapted to fit them for the business in which they were to be employed, by obtaining access to our best classic writers, and attaining a knowledge of our language, though they modestly brag not of their proficiency in this respect, but choose to avail themselves of the assistance of an interpreter, which has this advantage, that it gives them the opportunity of preparing an answer to the question which they understand, while the interpreter all unheeded, is performing his superfluous part of furnishing them with a needless translation.

My lords, the other points of resemblance are so many, that I shall not detail them; for your lordships will see them when I come to enter into the particulars of the evidence. But I wish, in the first place, to remind you what sort of a person Mademoiselle Demont describes herself to be; because it signifies very little in comparison what we shall succeed in showing her to be; I had rather take her own account of herself; I cannot wish for more; and I am sure she could give us no less, with any ordinary regard to her own safety; for as to regard of truth, I say nothing about it upon this occasion. She is a person, it seems, of a romantic disposition implanted in her mind by nature, and which has been much improved by her intercourse with the world. She is an enemy to marriage, as she says in her letters. She does not

like mankind in the abstract,—and yet "*potius amica omnibus quam ullius inimica,*" I think we may say, from some things which came out afterwards,—mankind in the abstract she rather objects to; but she makes an exception in favour of such a near friend as Sacchi, whom she dignifies by the title of an Italian gentleman; though he, ungrateful man, to justify her dislike of mankind, will not return the compliment, by acknowledging her to be a countess! But this Italian gentleman, whom she will not acknowledge to be a servant, came over with her. Marriage, she says, she does not like. She loves sweet liberty; and in the pursuit of this "mountain nymph" over her native hills and in this country, your lordships see the sort of company in which she is landed, namely, that of Mr. Sacchi, not to mention Krouse the messenger, who goes over to fetch her, and brings the reluctant fair to appear as a witness upon the present occasion.

But far be it from me, my lords, to deny the accomplishments of this person. Very far indeed from me be any such thought. She is the most perfect specimen, —she is the most finished model,—of the complete waiting-maid, that I suppose the world has ever seen in actual existence. I believe none of the writers of her own country, or of ours which she is now studying, will give a more complete specimen—neither Molière, nor Le Sage, nor our own Congreve or Cibber,—than that which she has given, without any assistance, in this house. I cannot deny her the greatest readiness of invention; that she is at no loss in writing I cannot dispute; I must admit, too, that she is not at all sterile in her descriptions upon those subjects on which she enters, until she is brought into contrast with her own letters, and until my learned friend Mr. Williams begins his somewhat unceremonious, not to say inconvenient, cross-examination. I cannot deny that she possesses a caution which would do honour to the Machiavel of waiting-maids; that she is gifted with great circum-

spection; that she possesses infinite nimbleness in devising excuses, and adjusting one part of her evidence with another; that all her shifts and her doublings were well devised, and that if the thing could have been done,—which it cannot by the eternal laws of truth,—she would have succeeded in blinding and deluding her hearers. She showed great art in endeavouring to reconcile the stories she had told, with the contents of the letters which were produced; which letters she had not forgotten, though she did not know that they were still in existence, and ready to be produced against her. Had she been aware of their preservation, and had her patrons been aware of their contents, your lordships would never have seen her face here; just as you have not seen the faces of some seventy other witnesses, whom they dare not call, and whom they have shipped off, like so much tainted meat, or useless live lumber, for their native country. Far be it from me, then, to deny the accomplishments of this person! Nor do I deny that she is a great adept at intrigue; which, indeed, she piques herself upon. She would never forgive me if I refused her that merit. Her constant practice is, to deal in *double entendres;* her friend Sacchi—I crave her pardon, Mr. Sacchi—does the same; she in her letters to her sister, and he in his conversation with Mr. Marietti. So that it is impossible for us, and may be very convenient for them, to know what they mean. In short, to them may be applied what was said of old of a whole people: "Tribuo illis literas; do multarum artium disciplinam; non adimo sermonis leporem, ingeniorum acumen, dicendi copiam; denique etiam, si qua sibi alia sumunt non repugno; testimoniorum religionem et fidem nunquam ista natio coluit: totiusque hujusce rei quæ sit vis, quæ auctoritas, quod pondus ignorant."—I hear her candour praised by some persons, and why? Because she admits she was turned off for a story which proved to be false. I hear her praised too for her other admis-

sions; and what were those? When asked if she was sincere in such and such praises which she bestowed upon her Majesty, she said, in some of them she was, but not in all; in a part she was, but not in the whole. —"Were you in want of money?" "Never."—"Did you never write to your sister, 'I am in want of money?'" "It may be so; but if I did so it was not true." So there is no connection *in rerum natura*, in this person's case, between the thing being true and her saying it, nor any opposition in this person's mind, in a thing being downright falsehood, and her saying and writing it. Truly, this is her own account of herself; and yet, to my no small astonishment, I have heard her praised for the candour with which she gave this account, by persons of moderate capacity.

My lords, I need hardly remind you,—I need hardly remind any person whose capacity is above the meanest, —I need hardly tell any man who is not fit to be turned out in the fields among those animals whom he sometimes abuses by using, I need hardly say to any one above this level, See what is the effect of this! Will it be said—"Be it that she uses *double entendres*, that she tells falsehoods freely to gain her own ends; yet the candour of making these admissions, the ingenuousness of youth with which she informs you that she tells falsehoods by wholesale, so that she cannot be depended upon for a word she utters, is a blandishment more seductive than all her personal charms; it binds us to her, though not her personal lovers; and we open our ears to all her tales because she is so engaging a liar, and acknowledges, with so much readiness, that there is not a word of truth in her whole story?"—My lords, in anybody but a witness you may be pleased with such candour; in any except one whose credit depends upon the truth of her story. You may say to any other person, "Poor, dear, innocent Swiss Shepherdess, how ingenuous thy mind!" but to a witness! I never before heard so strange a reason for giving a

witness credit, as citing the candour with which she admits that she is not to be believed.

My lords, look at her letters,—look at her explanations of them. I will not go through them in detail; but I will tell you,—and the more you look at them, the more you will be convinced of this truth,—that her explanations of them are impossible,—that the *double entendres* do not fit,—that the interpretations she gives do not tally with what appears in black and white. Her gloss does not suit her text,—the two are totally inconsistent; and the clear contents of the four corners of the document show that what she stated on her oath is untrue. The letters themselves want nothing to make them perfectly intelligible. But her key does not fit her cypher. The matter only becomes doubtful as she envelops it in falsehood, by the inventions of the moment, by her extempore endeavours to get rid of the indisputable meaning of the words in her own handwriting. My lords, a plain man knows how to deal with these things. He does not entangle himself in the miserable webs which this dirty working creature attempts to throw around him; he goes straight on, if he be a wise and an honest man, to see justice done to the object of a perjured conspiracy; he goes straight through, and believes those, and those only, who show themselves to be worthy of credit; and I pray to God, that your lordships may so believe, and not stand an exception, a solitary exception to the conduct of all the rest of mankind! I hope your lordships will believe this woman to have been sincere, when she says that the Queen was good and innocent; that she then spoke the language of her heart in the eloquence of her feelings, and has only since been corrupted, when upon a refusal to take her back into that service where she had never received aught but favour and kindness, she has fallen into the hands of the other conspirators against the honour of her illustrious mistress.

I forgot, my lords, in admitting the qualities of this female, to make another concession. She is kindly attached to her own sister. She loves her with a sincere affection. She tells you so. Her principle in her conduct upon this occasion, if she is believed, is anxiety for her service and interest. Now, I do not believe the story which follows; and it is not I who am calumniating Demont, because I am taking her own account of herself, which I do not believe. Mine is a plain story. She represents herself as affectionate towards that sister, heartily attached to her interest, only anxious to promote it,—her sister just coming into the world at the innocent age of fifteen,—and that she does all she can to obtain a place for that sister in a house which, if you believe a tittle of what she told you, ought to have the name, not of a palace, as the Attorney-General says, but of a brothel. She has two sisters, indeed, and she is equally attached to both. She describes the letter as written immediately after leaving those scenes,—immediately after having been unwillingly turned out of this brothel,—unwilling to leave it she says she was, although she admits that (differing from her sisters in that respect), she was rich and they were poor, and was therefore under no necessity of submitting to that contamination, which no necessity ought to induce an honest woman to endure. But though she was under no necessity, the honest Swiss chamber-maid balances the profits of her place against its disgrace; acting upon the principle of the Roman emperor, who, so that he raised a tax, was not over anxious as to the materials from which the filthy imposition was obtained. Though she admits that the house is worse than an ordinary brothel, and avows that she loves her sisters, the elder as well as the younger, she is occupied for six months after she leaves it, first, in endeavouring to obtain for the virgin of fifteen a place in order to initiate her there; and next, to keep the maturer girl of seventeen in possession of

so comfortable and so creditable a situation. Such is Demont by her own account! I do not believe her so bad,—I believe no woman so bad,—as she now finds it necessary to tell you she is, because, unexpectedly, we bring out her own handwriting against her. I believe every word of her letter to be sincere. I believe she did right and well in wishing to retain her own place, to keep one sister there, and then to obtain employment for another; but I also believe, that having been driven from thence, and disappointed in her hopes of being taken back, she invented the story she has now told, not knowing that these letters were in existence, and would be brought in evidence against her. But she was sworn in Lincoln's-Inn Fields before she knew of these letters being in existence. Had she known of this fact, I have no doubt she would rather have foregone all the advantages she has reaped, from coming forward as a leading witness in the plot against the Queen, than have made her appearance at your lordships' bar.

So much for this lady. I now come to that amiable gentleman, Mr. Sacchi. And I observe, my lords, with great satisfaction, a most pleasing symptom of liberality in the present times, as exhibited in the liberal reception which this witness has met with among your lordships, and in the pains which have been taken, both by those who produced him, and those who afterwards examined him, to increase the estimation in which it was wished that he should be held. It shows how the age is improving. It shows how fast vulgar prejudices against Buonaparte and the French nation are wearing away. I well remember the time when nobody would have been very well pleased to bring forward as a principal witness in a case of any kind, a man whose recommendation was, that he had been a soldier of Buonaparte, that he had served in any of his campaigns, and had been promoted by the Corsican adventurer, the daring usurper, the unprincipled revo-

lutionary chief, as it was the fashion so lavishly to call him. Nevertheless, now that a witness against the Queen has this merit to boast of, it is brought forward, as if we had never heard anything, as if we had never been sickened by whole volumes of abuse which had been poured forth, for the purpose of showing, that the very name of a French hussar, particularly if he happened to be a servant of Buonaparte, was exactly the name for everything most profligate and abandoned. Now, my lords, without having ever been one of those who approved of the excess to which this abuse was carried, on the part of ourselves and of our neighbours, I nevertheless cannot help thinking that a cast-off servant, a courier who pretends to be a gentleman, and now has his servant to wait upon him, and who says, "Thank God, I was always in easy circumstances," though he was once living on the wages of a common courier; who can only say, that he was a common soldier in the French army, and was refused a commission in the Swiss army, but was offered the place of a sergeant,—would a few years ago, have stood very little chance of mending his credit by this last adjunct. But this is my least objection to Sacchi. I must, indeed, be allowed to say, that the fact of such men having bravery enough to induce their masters to give them a pair of colours, is not the best positive proof of their being the most sincere and the most scrupulous of mankind. But look, my lords, at the account you have of him from himself. He too, deals in *double entendres*. He has gone by three whole names and a diminutive,—two of them we know, and the third we do not know; but by three names and a-half has he gone. When he came to this country he began his *double entendres* as soon as he came in contact with his beloved Demont. He told two *double entendres*,—if I may use four syllables instead of the shorter Saxon word. For if men will do this frequently and continually—if they will do it for a great object,—

they get into the habit of doing it for no object, but mere sport and playfulness. He tells first this *double entendre*, "that he had come in the service of a Spanish family." Then he tells another, that "he had a law-suit,"—we have never heard what that was, nor anything more about it—that he came over in consequence of "a law-suit, a process with her Royal Highness." How, then, did he get into the situation in which he is now living with a servant of his own, seeing that he was so sorry at being turned away from the service of the Queen, where he was first employed at the lowest wages of a courier, and afterwards as a poor equerry? My lords, you must believe that he has got money nobody knows whence, or you must disbelieve his story altogether.

But there is another similarity between Sacchi and Demont. He is asked, "How much money had you in your name at your banker's at Lausanne?" He answers, "Fifty louis."—"Will you swear you had not more than that at one time at that banker's?" "I had no more than those fifty louis."—"Will you swear you never had a credit which empowered you to draw upon that banker for a larger sum than this?"—"I never had."—"Have you never represented that you had a larger sum or a greater credit?" "I do not remember to have said." Suppose any of your lordships were asked to speak to a fact, and were to say, "Positively not,"—"most certainly not,"—"I know it is not so,"—nobody would dare to put the next question to you,—at least I know very few of your lordships to whom they would dare to put it,—"Did you ever say so?" It could only be put to any one of your lordships in jest, or in consequence of the greatest familiarity subsisting between the parties; for you had answered substantially that question before. If you are a man to be believed upon your oath, have you not answered the question, whether you ever told any person you had more at your banker's, by saying you know you

had no more at your banker's? If you had no more at your banker's, you never could have said that you had more; for if you had, you would have been guilty of what Sacchi calls a *double entendre*. But not so with Sacchi, or whatever his names, great or small, may be,—"I may have done so; I cannot swear when I am in doubt." The same as to his letters. He was asked, "Did you ever represent to any person after you had left the service of her Royal Highness, that you were in a destitute condition?" "Never."—"Did you ever entreat any person of her Royal Highness's household to have compassion on your dreadful situation, after you had left her Royal Highness?"—"I have never been in a dreadful situation." "Did you ever represent,"—there I was stopped,—"Did you ever say,"—but he had heard all the argument about representing,—"Did you ever say to any person that your conduct towards her Royal Highness was liable to the charge of ingratitude with respect to a generous benefactor?" "Never."—"Will you swear that you never entreated any one of the suite of her Royal Highness, after you had left her service, to take compassion on your situation?" "It may be." "Is that your handwriting?"—a letter being put into his hands,—"It is." "Is that your handwriting?"—another letter being put into his hands,—"It is." Now, in these letters he has taxed himself with ingratitude in the plainest words. Luckily, he had forgotten those letters. Would any of your lordships shelter yourselves under such a despicable pretext as to say, "Oh! I did not *say* it, I *wrote* it?" *Litera scripta manet*—Your lordships shall see the letters.

But you will recollect what passed afterwards; for I now come to a providential accident, if I may employ such contradictory terms, in compliance with the common use of them; I now come to an accident, but which I call an interposition in favour of innocence, which is always the care of Providence. Sacchi was

asked by my learned friend, the Attorney-General, "You have stated, that when you came to this country, you assumed the name of Milani; what was the reason why you assumed that name?" To which he answered, "I took this name on account of the tumult (*tumulto*) which had taken place, and of the danger I should have run if I had come under my name, knowing that I should have been known."—"When was it that you assumed the name by which you now go?" "It was immediately after the affair that happened at Dover." Now, luckily, he had forgotten the date; happily he did not recollect, that he came over to this country in July in the year 1819, and that the tumult at Dover happened in July 1820. These, my lords, are the providential circumstances by which conspiracies are detected; and but for which, every one of you may be their victim to-morrow. Now, I call upon your lordships to see how the witness gets out of this. After a short interval in the examination, you will find in page 459 of the printed minutes, that which I will read for the sake of connexion; and I do it the more freely, because it is the last quotation with which I shall trouble you from this evidence. In answer to a question put to him by the Attorney-General, Sacchi says, "I took this name on account of the tumult which had taken place, and of the danger which I should have run if I had come under my own name, knowing that I should have been known." "When did you assume the name by which you now go?" Then he instantly recollects, "It was immediately after the affair that happened at Dover." The name he now goes by, he assumed since the affair at Dover; the name of Milani he assumed a year before at Paris. My learned friend, the Attorney-General, leaves him there, concluding, from his experience of these matters, that he would only make bad worse by going on. But one of your lordships took it up; and if there ever was a specimen of shifting and beating about the bush,

to shelter mortal from an unlucky scrape arising out of a false tale, here you had it. The manner in which it was all spoken,—the confusion, the embarrassment, the perplexity, I cannot represent. I trust your lordships remember it. But enough remains upon the record, and by that I should be willing to try the credit of Sacchi as a witness. "Had you ever gone by the name of Milani before you came to England?" "I took this name in Paris."—"At what time, in what year, did you take that name in Paris." "Four or five days before I set out for England."—"When was that?" "In the month of July last year."—"What was your motive for taking that name at that time in Paris?" "As I knew that I was known in London by my own name, I endeavoured to shelter myself against any inconvenience that might happen to me." Not a word about what had happened to others! "What tumult had happened at that time that induced you to take that name?" There is no more getting him out of the potential mood into the past tense, than there is getting him out of knavery into honesty. "What tumult had happened at that time that induced you to take that name?" "I was warned that the witnesses against the Queen might run some risk if they were known,"—forgetting, or wishing to slur over, that he had used the word "had," and wishing to substitute in its stead another tense. "Had you been informed that they had actually run any risk?" "They had not run any risk then." Then what was the "tumult" which he had spoken of before? The most favourable opportunity is then given him which an honest witness could possibly desire, of correcting himself, and of explaining the whole fact,—an opportunity which counsel might not have been disposed to allow, but which the house very properly gave him. The former questions and answers are read over to the witness, and he is desired to reconcile and explain them. But with all those advantages, observe, my lords, the lameness of the

pace at which he hobbles off; for on the manner of doing a thing as much may depend as upon the thing done. The former question and answer being read from the minutes, he is asked this question, "Having stated in a former answer that you changed your name to that of Milani in consequence of a tumult that had happened, what did you mean by that statement?" "Whilst I was at Paris a gentleman came, accompanied by the courier Krouse,"—who had been named before, —"and the only time I saw him; and he,"—not Krouse, who might have been called, but the gentleman, who is not named,—"he told me, that it would be necessary to change my name,"—a kind man, though unknown; more kind than many we know better,—"because it would be dangerous to come to England under my own name, as I had told him,"—and these are inventions after the first part of the sentence,—"had told him I was known in England under my own name; and that already something had happened on this account; not on my account, but on account of other people." "Did he tell you that a tumult had taken place?"—now he is obliged to say something about a tumult, being led to it by the reading of the question. "He told me some tumult, some disorder." "On what occasion did he say that tumult had taken place?" "He told me nothing else." "You are understood to say it was with respect to other persons; what did you mean by other persons?" "He meant to say that some disorder had already happened, in regard to other persons, for similar causes." "What do you mean by similar causes?" Now, I never saw a witness who was brought into a corner by such a question, who did not answer as this man has done,—"I have repeated what that gentleman told me."—"Did you understand that it was with respect to witnesses who had come to give evidence in respect to the Queen?" "I believed it was for this object." "Did you know that any witnesses had at that time come

over to give evidence in the cause of the Queen?" "I did not know with certainty, but in the same way I was coming I might imagine"—the potential mood again—"that some other people might have already come." And there I leave him. I do not deny that he might imagine this or anything else. I do not deny that other persons might have come as he was coming. I admit it to be possible. But what I deny is, that any person could have told him that which he says he was told. That he may have invented all this here, when he was pressed from an unexpected quarter, I readily admit to be possible; but that an unknown gentleman should have accompanied the well-known Krouse to Paris, should have told him a pure fiction of the brain, which no man could have dreamt of a year ago, is as utterly impossible as that a man should by chance have written the *Iliad*. My lords, only see how this stands; for I am afraid you do not feel it with the force which belongs to it. We now all talk of the tumult at Dover, and the risk to which the witnesses were exposed, with familiarity, because they are matters of notoriety. But carry yourselves back to July 1819—Who of us all, even in his most fanciful mood, ever dreamt of any one part of that scene which has taken place—any part of what we know, or of those consequences which we shall unfortunately never live not to know, have followed from these proceedings, —a tumult in consequence of the arrival of flocks of witnesses coming, and those regularly insulted, because witnesses in the Queen's cause? All this is mighty familiar to us now. But go back, my lords, I say, to July 1819. Would any man then have suspected it? I say it was an invention by the witness, to cover his retreat from the position into which he had unwarily fallen or been entrapped; and that in the month of July, 1819, no man ever told him, or could have told him, that any tumult had taken place, or that any witness had been exposed to insult.

My lords, it is only by comparisons like these that perjury can be detected, and conspiracies defeated. And this leads me to remark, that if you defeat a conspiracy by showing perjury, or untrue swearing and prevarication, on points however collateral or trifling, there is an end of the credit due to the witness, and a failure of the proof of the conspiracy on the main points, though you should have left them untouched, which, however, is not the case here. But with respect to the witness Sacchi, I may as well now mention that part of the story which he and Rastelli, a turned-off courier like himself, had agreed in trumping up; because, however disgusting, however offensive, the slightest allusion to it, or the recollection of it, may be, I am sure your lordships will see that I cannot avoid reference to it, and comment upon it. Do your lordships think it very likely that any woman,—I might almost say any miserable person who gained her livelihood by prostitution,—would do that thing openly, in the face of day, with a menial servant four yards from her, without the slightest covering or screen, which Rastelli tells you the Queen did openly, in the neighbourhood of the Villa d'Este? Do you believe that with the knowledge that a courier was travelling on one side of the carriage, with the certainty that if surprised asleep, that courier might open the curtain (for his story is, that he always did so),—do you believe that, with the ruin staring her in the face to which such a discovery would expose her, by blasting her character even amongst the most abandoned of her sex, any living person would go to sleep in the position described by Sacchi as that in which the Queen and her chamberlain were found by him in the morning asleep in the carriage? But your lordships' credulity must be stretched yet many degrees; for if you should have expanded it so as to take in the belief, that such a thing happened once, it will be nothing compared with what Sacchi has occasion for, in order to be

credited; you must stretch your credulity yet many degrees wider, in order to believe his story,—and if you do not believe the whole, you can believe no part of it. This, he said, was the habitual, constant practice,—it happened again and again,—and he himself saw the self-same thing several times. I appeal to your lordships,—Is this probable? Is it in the common course of things, even with the most profligate and abandoned women, the women who are a disgrace to their sex? I say unless you believe the parties to be absolutely insane, there is no accounting for such conduct.

My lords, there is an impossibility, I think, physically, in the story which Sacchi tells, at a time when the carriage was going at the rate of nine or ten miles an hour, over such roads as we know are found in that part of Italy, with two hands placed across each other, while the parties are fast asleep, and without any power over their limbs. To overcome this difficulty would, I think, have required the testimony of philosophers who had made experiments. And yet we are called upon to believe this on the evidence of Sacchi, such as he has described himself to be, but who has given you no other description of the carriage, except that there were curtains to it. What if it be an English carriage, with glasses and spring blinds? What, if I show your lordships, by evidence, that it was an English carriage, furnished with glasses and with spring blinds? And even if the glass were down, which is not very likely in the night, how was he to open the curtain without putting his hand in to touch the spring, which he does not say that he did? What if I should prove that Sacchi was not the courier who went that journey, but that it was another courier, of whom you shall hear more? But I contend that it is unnecessary for me to prove this. I deny that I am called upon to prove this. The opposite side had plenty of witnesses to establish their case, if established

it could have been. They had abundance of cast-off servants; and if cast-off servants would not answer their purpose, they had the servants now in the employment of her Majesty. Now, why did they not call them? Again and again let me entreat of your lordships never to lose sight of this,—for it is a main, if not the cardinal point in this case,—the accuser is not ever or upon any account, to be excused from making out his case. He has no right to put it upon the accused to call witnesses to prove herself innocent, seeing that it is the business of the accuser, by good evidence, whencesoever it may be drawn, to prove the charge.

But was there any other person in the carriage while this scene was going on? "*Non mi ricordo*" was the answer of Sacchi, adopting the well-known language of the justly celebrated Majocchi. Now observe, my lords, the caution of this answer. That question did not come upon him by surprise. "I shall be asked," thought he, "whether there was anybody else in the carriage. If I say there was anybody there, nobody will believe it to have happened. If I say nobody was there, and it turns out that somebody was there, this will destroy my testimony, and therefore I must say, "I do not remember." But he shall not stay there. In that lurking-place he shall not abide. I will drag him out. The first remark naturally would be—"This could not have taken place when any person was by; there must have been nobody else there." My lords, there *was* somebody else there, during the whole of the journey, as I will prove to your lordships. In the next place, after a person has witnessed such a scene as this, and that person a servant, is it very likely that, from that moment forward, his lips should be hermetically sealed? that he should never dream of confiding it to the easy ear, the willing ear, of his tender and gentle and soft friend Demont? that he should enjoy the intimate and delightful intercourse of her society for

months, both abroad and in this country, without talking of this, from a delicacy, I have no doubt, in their intercourse, far above that of all other pairs? He was aware that some had split upon a rock by saying that they had never told their story to any one until they told it at Milan,—boatmen, masons, carvers, gilders, waiters,—all the witnesses brought from Lombardy. But he did not choose to say so. He had, by your lordships' kind permission, seen the evidence taken at your bar, and had studied it, knowing, as he does, the English language. He did not, therefore, choose to say, "I had told it to no one," but thought it more safe to say, "I had told it to people, though I cannot name one of them now." I say if it is clear, that such a thing could not pass and be seen without the eye-witness telling it again, it is just as clear, that the eye-witness could not tell it again, without well recollecting to whom he had so told it.

My lords, as to the witness Kress and her story at Carlsruhe, I have only to add, that it is physically impossible it could have happened, inasmuch as she says she well remembers it was after the first night they arrived at the inn. She remembers that by the circumstance of her having been called in one morning at breakfast———

[At this stage of the speech the house adjourned, and next day (October 4th), Mr. Brougham resumed.]

How comes it to pass, my lords, that with no want of care in the preparation of this Case; with the greatest display of skill and management in all the parts of the preparation; with boundless resources of all sorts, to bring these faculties into play; there yet should be one deficiency so remarkable, that even upon the names of the witnesses being pronounced, it must strike every observer—I mean, the total want of balance between the different countries from which the

evidence is brought, and the unfairness shown towards some great nations, contrasted so manifestly with the infinite attention paid to others; so that while the Italian States, from the greatest to the pettiest, are represented on the present occasion by numberless deputies, I will not say of all ranks—but of all ranks below the lowest of the middle orders—when you come across the Alps, you find Switzerland, the whole Helvetic League, appearing in the person of a single nymph, and the whole circle of the Germanic Empire, embodied in the personage of one waiting-maid at an inn—that from Vienna, the capital of the whole country, nobody appears at all—that from none of the other resting-places of her Majesty, in her tour through her native land, does a single delegate arrive —that from none of her abiding places there, least of all from the spot of her nativity, where she was best known, is one deputy to be seen—and that, in fact, everything on this side the Alps is to be found in the person of one chamber-maid, or cellar-maid, or assistant to the cellar-man or drawer,—for in grave quarters doubts were raised in which of those capacities this Germanic representative was to be regarded. But, whatever doubt we might entertain as to her quality, with respect to her number there is no doubt; she is assuredly the one, single individual person from that portion of the world, and save and except the Swiss maid, she is the one single individual of all the company who is not Italian. I beg your lordships' pardon, there are two grand exceptions, but they are my witnesses, not my learned friend's, and I reserve them to open my case withal.

My lords, I now come to call your attention to this single German individual who appears before you, in proceeding to deal with whom, I was kindly interrupted by the attention which your lordships paid to the convenience of the parties yesterday. And here, as upon former occasions, I find myself obliged to have recourse

to the witness herself, for the description of her own qualifications. She knows them best; she cannot be said to bear an unfavourable testimony; for excepting always the single instance of the Queen as shown forth against her here, there never yet was known any person extremely anxious to fabricate evidence against herself. Now Kress, to take her from her earlier years, appears by her own account to have embraced at the tenderest age the reputable, the unsuspicious, the unexposed office of a chamber-maid at a little German inn. If your lordships will calculate from the number of years which she mentions back to the time to which her evidence applies, you will find she was just turned of thirteen years when she first became such a chamber-maid at the inn where she was afterwards found. The other places in which she served, it is not quite so easy to discover; but still there is no very great difficulty; and any little impediment in the way of our research into this part of her history is removed by a little attention to what the object is of the person who alone creates that difficulty, and to the motives with which it is thrown in our way. I make Kress herself her own biographer; for she tells you she was in other places, —what places? Mr. So and So. "Mr. Marwey,—what was he?"—"I was as his servant." She tries to sink, until pressed, what the particular occupation of the master was, and what the particular capacity of herself in his service; and then it comes out, that in all the instances, without one exception, in which she had a place, unless when employed in the laundry of the palace of Baden, she was in all those cases in an inn, and in no other kind of house. However often she may have changed her service, she never has changed her station.

My lords, she lets us a little more into her history afterwards, and into the nature of her pretensions to credit before your lordships. First, we find in what manner she was induced to give her evidence; and I do

entreat your attention to it, because it shows, that if there be any want of witnesses here, particularly from Germany, it is from no lack of agency on the part of those who were preparing the case against the Queen; for the agents in Germany are found in their accustomed number, with their usual activity, and with the full command of their ordinary resources. And I must say, that reflecting upon the Milan Commission as an Englishman, and recollecting that the German agents are not our countrymen, I feel some satisfaction that there was a greater degree of impropriety shown in the conduct of the German agents than we have ever imputed to any one beyond the Alps. I introduce to your lordships fearlessly in support of this proposition, Baron Grimm, the minister of Wurtemberg, the throne of which has been long filled by the Princess Royal of England. But I trace his connexion with the parties in this prosecution. He and a person named Reden (which Reden succeeded Baron Ompteda in his mission to Rome, where he dared to treat the consort of his royal master—his own Queen as well as she is your lordships'—with insults that made it impossible for her to remain on the spot, even if the defence of her honour had not imperiously called her hither)—Grimm and Reden, and another whose name does not occur to me, but who is also a minister of the Grand Duke, at the place where the scene is alleged to have taken place, were the active and unscrupulous agents in this part of the plot against her Majesty. The worthy Baron Grimm, in the zeal which he shows for his employers, I have no hesitation in saying, has scrupled not to throw far away from him all those feelings of decorum, which a man may not dismiss, even in the most ordinary occasions of private life. It seems, however, that in affairs of diplomacy, things may be justifiable in a minister which would disgrace a private individual,—that conduct may earn him the applause of his employers which would call down upon his head the reproba-

tion of every honest man in private life,—that actions may cover him with rewards, which he falsely calls honours, that would dishonour and disgrace him, had he been only acting in his individual capacity. My lords, I say, Baron Grimm did that which would have inevitably worked this destruction to his character, if he had not been a diplomatic agent,—to whom, I presume, all things are lawful.

Baron Grimm was living in certain apartments,—they were his own by occupation. He heard that the Queen was about to arrive,—he artfully gave them up. He accommodated her Royal Highness with the use of those rooms. He kindly left the principal apartment, and disinterestedly encountered the inconvenience of a change to other and worse lodgings. He courteously gave her the use of those from which he had himself departed; and as soon as her Royal Highness departed from the rooms,—on the very day that she left them,—he returned again to the same rooms, and was found with another coadjutor in this plot, running up and down,—to use Barbara Kress's expression,—"running about the rooms," examining everything, looking at the furniture, prying into the beds, taking note of what had passed, that he might report to those who he thought would be pleased to find that he had gone upon such errands, but who I know and feel were above sending him upon such a dirty mission. But in one character he does not appear. Active as this agent everywhere is in the vile office of a runner of the conspiracy; sedulous and unscrupulous in his observations as he has been; regardless of his own dignity, and forgetful of that of the sovereign whom he represents, as he has proved himself to be,—he nevertheless does not condescend to make himself a witness. He does not adventure to come forward here; he does not show the same boldness to face your lordships and us, which he showed to face the reprobation of the public in his own country, and wherever else his conduct should be criti-

cised. Here the Baron is not forthcoming,—here he is not to be found,—yet here he was a material witness, material in proportion to the importance of the matters which Barbara Kress alone has been brought into this country to swear to—of paramount importance, because Kress is the only witness who is brought to swear to any one of those particulars which are said to have passed at Carlsruhe—of still greater importance, when your lordships reflect, that because he entered the room at the moment the Queen left it, he must have been able, if Kress spoke the truth, to give confirmation to her statement. The Baron is, however, absent; and the only witness that could be obtained by all the skill, the industry, and the zeal of the several agents, to speak to the extraordinary fact, is this single German chamber-maid.

Let us then pursue the history of the only witness whom, with all the means in their possession, and so little scrupulousness in using them, these agents have been able to gather from all Germany. Look, my lords, at the contradictory account the woman gives of her motives for coming to this country. She twice over swore that she came upon compulsion,—that she only came because she was forced,—and you no sooner turn the page than you find that she made a bargain for compensation for the loss of time; but she was never promised anything—no recompense—nothing of the kind—no *Belohnung*, only an *Entschädigung*, it was said while she was examined, and said by those who were examining her: but she would not say so, she would not adopt the expression tendered her; though offered to her, she would not take it into her mouth; but she said she came by compulsion, yet at the same time confessed that she had bargained for recompense. But what had she reason to expect without any express bargain being made? What reason had she to expect recompense? And with what liberality had she ground to hope it would be meted out to her? She shall again tell the story which she told, however reluctantly.

None of your lordships can forget with what reluctance she let it be wrung from her; but, happily, still it was wrung from her. Your lordships will find the part of the examination I allude to in p. 193 of the printed minutes. She was asked, whether she had ever been examined before, and she answered, she had been at Hanover. The examination then proceeded thus, "What did you get for going to Hanover?" "I received a small payment, just for the time I had lost." "How much was that payment?" "I cannot exactly tell; it was little, very little." Now this I pledge myself to the accuracy of,—"little, very little," those are her words at page 193. Why then, it was said, the less it was, the more easily it may be remembered; but it subsequently turned out, that it was not because the reward was so little, but because it was so great, that she could not recollect it. "It was little, very little." Very little! What was this mere nothing? What, my lords, if it was a larger sum by five or six times than her yearly wages? What, if it was a larger sum by ten times than her yearly wages? What, if this little, this mere nothing, was even greater than her yearly wages, including all the perquisites of her place? What, if added to the sum she got for another trip to be examined at Frankfort,—she having been absent from her home six days on one trip, and four or five on the other,—what, if for one fortnight of a year, taking the going and returning into the account, this "very little," this mere nothing, which she cannot recollect, which she dismissed from her memory, and cannot now recall, because it was so little, turns out to be about double the sum, at all events more than half as much again, as she ever received, wages, perquisites, incidents included, in any one year, in her occupation of chamber-maid! Now, my lords, will any man of plain ordinary understanding and capacity, even if he has not been accustomed to sift evidence,—even if this were the first time he was ever called upon thus to exercise his faculties,

—pretend to say that he can believe this woman, in her attempt to deny receiving anything,—in her failure in the attempt to recollect what it was, because it was so little a sum, when it was a sum that must have made an impression upon her mind, not only sufficient to prevent forgetfulness of it, not only (if she spoke truth voluntarily and honestly) to make her have no doubt in her mind of the amount, and no difficulty in telling it; but—what is equally of importance for your lordships' consideration,—to make that part of her evidence be pronounced false also, in which she says she expects no reward in future; when here you see, that her expectations for the future must be measured by her recollection of the liberality with which she has been treated during the past?

My lords, you will find that the same equivocating spirit pursues this witness through the details of the case. The way in which she describes herself to have left the room where she pretends to have witnessed one particular scene, in order to go to the Countess of Oldi's chamber,—her way of denying when examined, whether she went there to satisfy herself that the person she had seen, or thought she had seen, was the Princess,—clearly shows your lordships, that she did not go to Madame Oldi's room for such a purpose, if she ever went at all; for, in answer to one of the questions put to her, as to the purpose of her going to Madame Oldi's room, and whether it was not to assure herself as to whom she had seen in the other room, she says, "I saw it was the Princess," which had nothing to do with the question as to the purpose of her going to Madame Oldi's room, if the other account she gives were true, that she had no such motive in going to Madame Oldi's room; and this was not an immaterial point; for it was necessary that she should negative any such reason for going to that room, as otherwise she could not prove that she had certainly seen the Queen in the other room—*Non-constat* that the Queen

was in that room, because Madame Oldi was not the only other woman in the house. It does not prove it was the Queen because Madame Oldi was in that room; but still the witness having gone thither with the intention of ascertaining if Madame Oldi was there, was a complete proof, that she was not satisfied of the person she had seen being the person whom it was her interest and her well-paid employment to come forward here for her employers in this conspiracy, and swear she had seen. I have mentioned to your lordships, that in the Carlsruhe case the ambassador Grimm does not come forward, with others who might have been brought—others belonging to the place—others belonging to the Queen's suite—to the absence of whom the observation I had the honour of making yesterday, and which I may have occasion to repeat afterwards, at present most strongly and most undeniably applies.

But now, my lords, we must again cross the Alps in pursuing the history of these witnesses. And there we find, that having dismissed all the principal performers in this piece, those who remain are mere make-weights thrown in to give colour and consistency to the fanciful picture, and to all of whom are applicable the general observations upon such testimony, which I had the honour of submitting to your lordships yesterday. Nothing, I think, can strike any one as being more inconceivable, than that what all these witnesses swear to have seen take place, should have been disclosed to mortal eyes by either of the parties to whom the depositions apply. The character and nature of those witnesses—of the lowest class of society—of the meanest appearance in every respect—of the humblest occupations, some of them even degrading ones—after all the pains taken to render them produceable witnesses—the total failure to clothe them with any the least appearance even of ordinary respectability—all this must have forcibly struck every person who saw but a single one of them here. I might remind your lordships of

Guggiari, one of the boatmen employed on the lake of Como, one of a boat's crew of eleven, all of whom were present at the time, none of whom had any intercourse of a confidential nature with either of the parties—if we are to talk of two parties here, as the accusation compels me to do, contrary to all truth, and without any proof on the part of the Bill. The impossibility of conceiving that any individuals in their ordinary senses, and possessing their common understandings, would have allowed such things to have passed before eleven men of this description, and all strangers to them, must have struck every one who heard the evidence given, and have dispensed with the necessity, and almost excluded me from the duty of cross-examining a single one of this swarm of petty witnesses, who were filling up the gap between Kress and Demont. Why were none of the others called—none of the crew? Did Guggiari ever tell to any person what he had seen? Had he ever from that moment to the present time whispered it to one living ear? Yes, once. When? Where? At Milan—to the Commission! So it is with all the rest. Rastelli, who swears to a scene too disgusting to be gone over in detail—who swears to that abomination having been impudently practised in the open face of day, without the most ordinary covering or shelter, whilst he was at four paces distance, and where the turn of his head might have revealed it to him—this Rastelli, like all the rest (for it is an observation that applies to every one of the witnesses of these strange abominations, as if the relation between cause and effect in this singular case was wholly suspended), had never opened his mouth on the subject—his lips were hermetically sealed, never to be opened again, until he appeared before the Commission at Milan. Ten long months elapse—the same silence! Was he living the life of a hermit all these ten months? Did he, like a solitary recluse, never see mortal face, nor approach human ear? Was there no brother, sister, friend, man,

woman, or child, to whom he could whisper it? To child, perhaps, profligate as I have no doubt he is, he might refrain from revealing it; but to brother, to mistress, to wife, he might have communicated it—to boatmen, who have been, as I know, the means of corrupting not a few of those whom they have attended, for they have confessed that they got into the way of telling stories which had not a shadow of foundation, because their passengers had got into the way of paying them for being amused with those details by way of gossip—not one whisper ever escapes the lips of Rastelli, or of the other witnesses, with respect to the sights they had seen. Is it, my lords, the effect of seeing such sights to make men silent? Is it the effect of seeing such sights to make men even in the higher ranks of society silent? How many are there of your lordships, who have not had long official habits, —whose lips are not under the regulation which such experience is calculated to inflict,—whose whole movements of mind and body are not disciplined and squared according to the rules of a court, so as even to enact the courtier when none are present—how many are there, even of your lordships, who would not in your natural state instantly have revealed it to some friend or other? But, my lords, I profess I can name none in private society—I can hardly name any gentleman, however prudent and discreet in his conversation, who not being intrusted confidentially, who only seeing what the party showed they evidently did not mean to be concealed, who under no seal of secrecy became acquainted with the fact, that would not necessarily, on witnessing so strange a sight, have made those wiser for talking with him whom he might afterwards chance to converse withal. Yet these low people, so different from persons in the upper ranks of life, are so much more discreet, so infinitely more upon their guard at all times and seasons, so incomparably more delicate in their conversation, talk only to persons of purity whose

ears would be contaminated, and whose cheeks would be crimsoned by the repetition of these details; for in no one case does any of the witnesses pretend to say, that he had ever told a living creature of those strange and abominable sights which he had just witnessed. Were they sights of every day's occurrence? Was the Princess of Wales kissing her servant openly, and without drawing the curtains, a thing that happened on the lake of Como as often as the wind blew over it? Was the Princess riding with her servants in a carriage, in an attitude of foul indecency not to be named without a blush, an occurrence which happened every day? My lords, my lords, the sight said to have been witnessed was so strange, so unheard-of, so frightful, so monstrous, so portentous, that no person could have beheld it and kept it to himself for a single day. But days, weeks, months, passed away, and then it was told for the first time before the Milan Commission! It was then, for the first time, that the lips of those persons were unsealed! But I will not admit, that they concealed this extraordinary thing for weeks or days, or even hours. They may indeed perchance have concealed it, from the instant that they invented it, upon hearing on their journey to Milan, that their predecessors had been well paid for lesser slanders; they perchance may have kept it to themselves lest they should have covered themselves with infamy among those who knew it to be all a falsehood,—among their neighbours they may have concealed the vile fiction,—but they kept it secret no longer than the journey to Milan demanded; and in no case, will I venture to say, was it kept longer in their breasts than from the time it first crossed their imagination to the time they went and earned, by telling it, the reward of their perjury.

But, my lords, you will see that in this instance we have no variety. There is, in this respect, a general sameness in the conduct of these witnesses. In other instances there are variations of importance. Do your

lordships recollect Pietro Cucchi, the waiter from Trieste? Can any man who saw him have forgotten him? Does he not rise before you the instant I mention his name,—unless any of your lordships should recollect the face, the never-to-be-forgotten expression of face, although the name may have escaped you? Do your lordships recollect that unmatched physiognomy,—those gloating eyes,—that sniffing nose,—that lecherous mouth,—with which the wretch stood here to detail the impurities which he had invented, to repeat the falsehood to which he had previously sworn at Milan? Do you recollect the unparalleled eye of that hoary pander from Trieste? Did he not look, as the great poet of Italy describes the hoary unnatural lecher in the infernal regions to have looked, when he paints him as regarding him with the eye, the piercing eye, of an ancient tailor peeping through the eye of his needle?*

I remember that man well. The story he told is enough; but I will contradict him, for *he* at least shall not pass unpunished. *He* at least is here. He must be made an example of. I can contradict others,—I can drag others to punishment,—but he at any rate shall not escape. My lords, I will show you, by evidence, undoubted, unquestionable, above all suspicion, that that man *must* have sworn falsely. I will prove it by the room itself. I can, if I will, prove it by the position of the door. I think his own account of the position of that door, in answer to questions put by your lordships, might almost save me the trouble of doing it. But I will show you more. I will show you that what he swore cannot be true,—either here if your lordships put me to the necessity of it, or elsewhere, for the sake of justice. I can show, my lords, that the Queen slept at Trieste, in her whole life, but one night: that she came one day,—went to the

* ——— guardommi
Come vecchio Sartor fa nella cruna.—DANTE.

opera, as he admitted she did (that was the only truth the wretch told)—left it on the morrow,—and neither before nor after ever crossed the threshold of the gates of Trieste in her days. My lords, I dismiss the other witnesses of the same description. I take this filthy cargo by sample purposely. Let those who will delve into the bulk,—I will not break it more. That it is damaged enough, the sample tells sufficiently, and with a single remark I dismiss it. Recollect, my lords, those foolish stories, not only about the hand, but about the pictures, and about the bracelet chain being put round the neck, with I know not what other trumpery, got up for the purpose of variegating the thrice-told tale; and you will, I think, agree with me, that the Italians who coined the fictions are pretty much the same now that they were known by our ancestors to be some centuries ago. Whether Iachimo be the legitimate offspring of our great Shakspeare's mind or not, may be doubted; yet your lordships will readily recognize more than one of the witnesses, but one especially, as the own brother of Iachimo. How has he represented himself?

> ——————— "I have belied a lady,
> The princess of this country, and the air on't
> Revengingly enfeebles me."—
>
> ——————" Mine Italian brain
> 'Gan in your duller Britain operate
> Most vilely; for my vantage, excellent;
> And, to be brief, my practice so prevail'd,
> That I return'd with similar proof enough
> To make the noble Leonatus mad,
> By wounding his belief in her renown
> With tokens thus, and thus; averring notes
> Of chamber-hanging, pictures, this her bracelet!"

My lords, the cases are the same. We have the same evidence, from the same country, for the same purpose, almost with the same effects; and by the same signs, marks, and tokens, with an extraordinary coincidence, the two cases are sought to be substantiated.

And now permit me, having disposed generally of

the characters of the witnesses, to call the attention of your lordships,—and it shall be within much narrower limits than I could have done, had I not necessarily anticipated the greater part of my comments on this part of the case, in describing the character of the witnesses who supported it; because, while I have been dealing with the subject in that way, I have been of necessity led to anticipate, by commenting on them, the different branches of the case which each witness was called upon to substantiate—permit me, I say, to call the attention of your lordships to the several heads, as it were, of charge—the several counts—if I may so speak of this strange indictment, under the form of a Bill of Pains and Penalties which is brought forward against her Majesty by the ministers of her Royal Husband.

Your lordships will recollect, that the first of these is evidently a Neapolitan scene. There the connexion is alleged to have been first completed—there the parties came together and accomplished, for the first time, but with great freedom, and with long continuance, and without any restraint at all, the purpose which they appear, I will not say long, to have cherished, but to have conceived somewhere about ten days or a fortnight before. The Princess of Wales (this is the accusation), having been theretofore a person of unimpeachable character, a person of unimpeachable life,—proved to have been so by much stronger evidence than if she had never been suspected,—proved to have been so, if there is truth in evidence, if there is benefit in acquittal, if there is justice in the world,—proved to have been so, better than if she had never been tried, by two solemn acquittals, after two searching examinations, carried on behind her back, and in circumstances utterly unfair, and wholly unfavourable to her,—so much proved to have been so, that when one set of ministers had reported her clear and innocent of the charges brought against her, but

recommended her to be censured for what some persons were pleased to term "levities," their successors in office, the authors of the present proceeding, were in nowise satisfied with this scanty acquittal, as they thought it, but determined that the censure for levities should be expunged, and recommended solemnly, that she should be instantly received by her sovereign, her uncle, and her father, at his rigorously virtuous court, as the purest princess would be received who ever adorned the walks of royal life,—this character having, by such trials, been supported,—having come out of the fire purer, in the eyes at least of those who favour the present charge against her,—how do those who at least are thought to favour this charge, but I should deem unjustly thought, considering their former history,—how do they say she demeaned herself the instant she left England? Their maxim—their rule of conduct—their criterion of probability is, *nemo repente* NON *fit turpissimus.* Arriving in Italy, say they, this pure and unimpeachable personage hires a servant, a man then at least in a menial capacity, of whom I shall afterwards have to say a few words. She moves towards Naples: and, in the course of a few days, certainly in less than a month, you are desired to believe that the whole of the criminal intercourse commenced, that the degradation of the Princess was completed, and all restraint flung away,—from the mistress of the servant she becomes the mistress of the lover, of a menial lover,—plunging herself into a depth of vice which even habitually profligate women could not for years accustom themselves to display or endure. Now, my lords, the whole case against her Majesty falls to the ground, if your lordships do not believe, that on the second night of her arrival at Naples the alleged connexion between the parties, the Royal Mistress and her hired servant, commenced; because Demont and Majocchi have both sworn to facts, which, if true, nay, if in their least

particular true, prove the connexion to have begun from that night, and to have from thenceforward continued. And with what caution is this carried on? Suppose that a long course of profligacy could not only bend the mind to the disgraceful circumstances, but render a woman incautious by habit—that is possible. But, it is not so here; for the first act is about the most incautious of the whole,—I mean, her choosing to go by the passage where she must be observed, in order to avoid the safer way to the room, the way through which it was highly probable no eye could watch her.

Then, my lords, only recollect the manner in which the evidence is brought forward; only see the manner in which this case is offered to your lordships' belief. How is the room prepared for the first night when the guilty pair were to meet?—By placing in the room which was to be the scene of their first loves—loves so ardent, that to accomplish them, all regard for decency and decorum had in one instant been flung away, and all caution to conceal them been for ever abandoned, —by placing in the room one small iron bedstead, of dimensions hardly sufficient to contain a single person, and only used upon a journey or in a voyage! This was the only preparation in a house, every room of which contained a comfortable bed. Nay, in that very room itself, there was another and a large bed, which the witnesses tell you was left untouched. This circumstance alone is decisive. The witness tells you, in her first examination, that the larger bed was not much tumbled; but, a day or two afterwards, I think on the third day, she mends this materially; and then, in answer to a question put to her by my learned friend, Mr. Williams, who reminded her that she had said the large bed was not much tumbled, she says, "Yes, I said so when I was examined the other day, but I have since recollected something, and I can tell you more about it now." One of your lordships had that explained, and

out came the story of the stains last of all—after she had again said, the second time mending the first account, that it looked as if two persons had pressed upon it in the middle. I repeat, last of all she recollected the stains; but what those stains were she could not tell. No person examined her about them: but she had not much liked my learned friend's operations the day before. She was not in good charity with Mr. Williams, after the second day's examination, which happened to be in his hands, and not in those of my learned friend the Solicitor-General; and, accordingly, she then said she would tell him nothing more, or, as she said herself, she recollected now what she had forgotten then. What did Mr. Williams say to her? What had passed in the interval to make her recollect one single tittle which the leading examination of the Solicitor-General (I speak it not offensively), with the brief before him, ought not to have made her remember, and which yet it could not make her remember then? Was it likely or probable she should forget so strong a circumstance as the situation of the bed, when she knew that she came here to prove adultery—when she felt, at every word she spoke, that she was here for no other purpose? The witness further volunteered to say, that the Princess returned home early from the opera. I shall show that she remained till the opera was over, in the presence of the royal family of Naples, and in the royal box. She said, that the Queen was in a state of considerable agitation when she dismissed Billy Austin, for the purpose of being alone. She said that Billy Austin had been accustomed to sleep in the Queen's room. But I shall show your lordships that this had ceased long before. I shall show your lordships that he slept in the next room to her Majesty, and that the door of communication was constantly unlocked. The witness said, that her Majesty forbade him to come into the room; but she did not forbid him, in the most simple and effectual of all

ways—by turning the key. She also describes the Queen as coming home early from the opera, to do what no man can doubt was adultery, under all the agitation and perturbation of a bridal night. Yet, my lords, will any man believe, that this person, so circumstantial and minute on other occasions, with a perfect sense how infinitely important it was to the tale that the bed should be represented not only as tumbled (which yet she said was not much tumbled), but as having been slept in by two persons,—will any man believe, that if she then knew this, or afterwards could have recollected it, and if it was not a mere after-thought and fabrication, she would not have said at first, "Oh yes, the bed looked as if two persons had slept in it;" and then the stains would have been added, which she probably knows the meaning of, although, like Barbara Kress, she denies she understood them?—It is plainly out of human probability that persons should recollect them, unless they understood them; otherwise, they are no more than ordinary marks or stains, which no person ever heeds, any more than the wind that passes over his head, or the marks left by the rain upon his path.

My lords, at Naples, another scene took place, to which Demont is the only witness. She takes care to tell you no time. She is aware of the consequences of that. She will not give you the means of sifting her tale, or expose herself to the risk of contradiction. She will not tell you, whether it was a week after their arrival at Naples, whether it was near the beginning or near the end of their stay there, or towards the middle of it. But some night during their stay at Naples, she saw Bergami come out of his room naked except his shirt, without stockings on, without a nightgown on, and moving towards the part of the corridor into which the Queen's chamber entered. She did not start back, she did not retire; but she moved on in the direction towards Bergami. And Bergami did not start back; he did not retire; Bergami did not make

any excuse, and Bergami seeing her before his eyes moved on also; and she made her escape out of the door; and he still did not bethink him of making an excuse, but moved on to the accomplishment of his guilty purpose, with more alacrity than almost a husband would have shown, in going to the bed-chamber of his own bride. Your lordships will find all this in page 251 of the printed evidence. I rarely stop to refer to pages, because I do not rely on particluar passages, but only draw your attention to the main and leading features of the case, which cannot possibly have escaped the recollection of those among you who heard the evidence given at the bar.

Let me now remind you of the scene which is represented to have taken place at Catanea. And observe, my lords, that here there are two witnesses who might have been called to speak to this transaction, if it really did take place, both of whom were named and vouched by the Attorney-General in his opening. "Two maids," says he, "were sleeping in the next room to that of the Queen; they both saw her come back from Bergami's room at an early hour of the morning; they both heard the child crying and the Countess trying to pacify her; and they both must have known what all this meant." Now, the Attorney-General not only does not venture to state, that these two women had ever communicated together from that time to this, upon a tittle of what that morning or that night had passed. They never did communicate together—they could not communicate together—for nothing of the kind had passed. The whole thing was false; but Demont alone is called. And what is the story as she tells it? Now, I pray your lordships to attend to it; for it is, if possible, more incredible upon the face of it, from the multiplied improbabilities under which it labours, than that which I have just run over at Naples. Bergami usually slept, not only not near the Queen's bed-room, but

on the other side of the court, which formed the centre of the building. On the opposite side of the court was his ordinary bed-room while he was well: but he became sick; he was seized with a severe fever, and he was brought over from his usual room into another room, belonging, I believe, to the Countess Oldi: and there he was lying ill for some days. Now, is it not a little extraordinary, that the scene of this amour at Catanea should be laid—I will not say in that room, though this would be strange enough, considering it could only be approached through the room of the maids—but that it should have been laid at the time when Bergami had a fever, and not when he was in good health? Bergami is there as a patient, not as a lover; and yet this is the particular moment chosen for those endearments which are left to be understood; and then her Majesty must have Bergami placed just in that situation of all others, in which access to his bed-room was rendered the most difficult and embarrassing, nay, the most impossible, when there were the two maids sleeping in the room between Madame Oldi's and his (for the Queen slept in that which had been Madame Oldi's room). The Princess moved out of her room, and one of the servants had undressed her — this very witness had undressed her—in her own room; and the story is, that she removed out of her room in the night, and returned in the morning—not that she was always lying in Bergami's room, but that she went there in the night, and coming back in the morning, she was seen by the maids returning. Is it not a marvellous thing, my lords, that this should be the mode of operation? that the thought should not strike her Majesty, that, in the accomplishment of this purpose, she was running the utmost risks without any inducement—risks similar to those which she ran at Naples in going through Majocchi's room instead of the empty room—while she might, by an alteration of the rooms, have rendered all safe and easy? She had only to place

herself in the servants' room, or in Madame Oldi's new room, and there she could have had access to Bergami, or Bergami to her, without crossing the threshold of her maid's door. But, if your lordships are to believe the representations made to you, all this is only in furtherance of, and in conformity with, the uniform tactics of her Majesty, to multiply damning proofs against her own character, her own existence, happiness, comfort, everything dear to her in the world. For this is the plot she is in; and she is under a spell, if you believe the witnesses, never to do an act injurious to her character, without providing at the same time ample evidence to make that injury inevitable and effectual.

And now I am told that I can contradict all this by means of Mariette Bron, the sister of Demont, and that it must all be believed unless Mariette Bron is called. I say, why did not you call Mariette Bron? I say, she is your witness; because you opened her evidence—because you vouched her—because you asserted that she was present—because you told us what she saw. And yet you call only her sister, whom you have in your own pay. I say she is your witness—because this is a criminal proceeding; because it is worse than a criminal proceeding; or of a nature higher at least in its exigency of pure, perfect, unsuspected, sufficient, nay, exuberant proof. I say a Bill of Pains and Penalties is a measure of such severity, that it ought to be supported by evidence, better, if possible, and stronger, than that which takes away life or limb. I say, she is your witness, and not ours—because we are the defendants, the accused and oppressed by the Bill of Pains and Penalties, which does not only accuse, but oppress and overwhelm. She is your witness and not ours—because we stand upon our defence; we defy you to prove us guilty, and unless you prove our guilt, and until you prove that guilt, we

ought not—if justice yet reigns here, we ought not—to be called upon for a defence. My lords, in a common civil suit, I can comprehend such tactics. I am not bound, in claiming a debt, to call, for the purpose of proving my case, my adversary's servant, or his clerk, or his relation. But if I am placed upon my defence, charged with even the lowest crime known in the law, pure, unsuspected testimony must be given, whether it is to be derived from one quarter or from another—whether it is to be got from the prosecutor's side or our own. And I will put a case to remind your lordships of this:—Suppose a highway robbery or murder alleged to have been committed, and a man is put upon his trial for it; suppose that a Bow Street officer, panting for his reward, or an accomplice, infamous by his own story, or a spy, degraded by his calling, or any other contaminated, impure, necessarily suspected witness of any description, is alone put forward to prove the charge; and suppose a friend of the defendant were standing by, his servant, or his partner in trade, or any person who is barely competent, by the rules of evidence, to appear as a witness—any person except his wife, who cannot be a witness—I say, no man ought to be—I say, no man can be—I say, by our uniform practice, no man ever would be—put in jeopardy of his life, or be called upon to produce in his defence, that friend, that relation, that servant, unless the case against him had been first proved by unsuspicious testimony; and if only the degraded spy, or the infamous accomplice, or the hired informer, or the Bow Street runner, were called against him, their testimony is not such as to make it needful for the prisoner to call his friend. It is the prosecutor who must call that friend: it is no excuse to say he is a friend, a relation of the accused; a partnership is no excuse: the English law demands, what common sense approves, that every man shall be considered innocent until he is

proved guilty; and that guilt must be proved at the peril of him who seeks to condemn losing the purpose of his prosecution.

My lords, the Queen is in a most singular situation. She must open her mind to painful constructions of the conduct of those who surround her. She may not view with a charitable eye the actions, and construe the feelings and the motives, of all she has intercourse with. She has been inured by a long course of persecution—by the experience of much oppression—by familiarity in her own person with manifold frauds of her adversaries—by all the arts of spies—by all the malice of the spiteful and revengeful—by all those hidden artifices which are never at first and not always even at last, discovered—artifices which only sometimes she has had the means of tracing and exposing to the day. Such is the life which she has led, the life of which this last scene now sifting by you, is very far from forming an exception. All that she has seen heretofore—all that she has seen now since she went last to Italy—all that she has witnessed here since her return—all that she has seen since this proceeding began—and she has heard the evidence read, down to the examination of the last witness on the last day—all is calculated to make suspicion, general, almost universal suspicion, the inmate of an otherwise unsuspecting breast. It is the fate of those who are ill-used—it is one of the hardest portions in the lot of those who have been so buffetted by the Grimms, the Omptedas, the Redens, not to mention the Douglases, the Omptedas of our own land—it is the hard lot of those who have passed through such trials, that the solace of unsuspecting confidence is banished from their harassed bosoms; their hearts are seared and hardened; they never can know whom they dare trust. And even at this hour, her Majesty may ignorantly be harbouring a second viper in her bosom, of the same breed as that which has already attempted to destroy her, and engendered in the same nest. The

Queen, my lords, has about her person a sister of Demont. She was placed there by that Demont. She was kept there by the arts of that Demont. She has corresponded with that Demont. They have corresponded in ciphers together, if you are to believe Demont, which I do not. But I take her as described by the Case for the Accusers; and in all the circumstances which justify, nay prescribe suspicion, as a duty to her own personal safety, my learned friends yet leave their case short against the Queen, proved by such evidence as I have described to you, or rather, as it is painted by the witnesses themselves, and leave her Majesty to call their own witnesses! They say, "Why do not you call the waiting-woman, Mariette Bron, who is still left by her sister with you—whom that sister first planted in your household—whom that sister made you retain about your person, at the very time she was hatching her plot against you?" My lords, he who fulmined over Greece, and darted through her assemblies his words of fire, once said, what I would now repeat, imploring you not to take it in our own poor language, but to recollect the immortal accents that fell from him, in which he imprinted on the hearts of his countrymen, that instead of all outworks, all fortifications, all ramparts, which man can throw up to protect the weak, the best security which the honest and the feeble have against the fraudful and the powerful, is that mistrust which nature, for wise purposes, to defend the innocent against the strong and the cunning, has implanted in the bosom of all human kind. It is alien to the innocent nature; but it is one of the misfortunes to which innocence, by persecution, is subject, to be obliged to harbour mistrust, while surrounded by plotters so little scrupulous as the Grimms and Omptedas, working with agents so still less scrupulous, as Majocchi, Sacchi, and Demont.

My lords, I am satisfied in my own mind, and I have no doubt all who hear me will agree with me, that we

are not bound to call this witness. I know not, if we had been ordered to deliver our opinion upon the subject to our illustrious client, that we should not have awakened suspicions in the Queen's breast, which even yet she does not entertain towards her serving woman. I know that it would have been our duty, as professional men, to have done so. I feel that we should have been more than justified in so doing; and I am confident that we might have appealed to the principles of which I have now reminded your lordships, and might at once have left the case as it stands, without calling this woman. But her Majesty has as yet seen no reason to part with one whom she still thinks a faithful servant. Whatever we may suspect—whatever the story of Demont may have taught us to suppose likely—the Queen has hitherto never known anything to the prejudice of her sister. That sister will, therefore, be presented before your lordships, and you will have an opportunity of hearing her account of those transactions which have been so falsely described by others. But I again repeat that this is gratuitous on our part,—that we do it voluntarily, from an over-excess of caution, lest it should be suspected by any one, for a moment, that there is any witness whatever whom we dare not to call.

In like manner, the story told of what happened at Scharnitz, upon the cross-examination of Demont, and upon the interrogatories put by your lordships, really melted away so that very little of it remained, and that little was perfectly equivocal, and quite consistent with the most perfect propriety of demeanour on the part of the Queen. But still, having seen that among some the story made an impression, at first rather than at last, we shall explain it in a way not at all inconsistent with anything but the peremptory swearing of Demont as to the time, when she says that she could tell, within half an hour, how long she had been asleep, although she could not tell how many hours she was in a room

wide awake the day before. Demont swore, that on the night Bergami returned with the passports to Scharnitz, he went to the Princess's room, and there remained the rest of that night. My lords, I will prove this to be false. I will prove that the moment the passports were brought, the preparations for the journey commenced. I will prove that her Majesty set off on her travels within an hour and a-half after the arrival of the passports, and that that time was scarcely sufficient to pack up and prepare for travelling. I will also prove, that during the whole time the Queen's door was hardly ever shut, and that there was a constant passing, not of Bergami, but of the other gentlemen of her suite,—the Queen lying on the bed in her travelling dress, ready to rise at one in the morning, provided the passports arrived so early.—So with respect to the Carlsruhe case; we shall show your lordships that it is impossible Kress can have sworn true. That she may have seen a woman in that room, if she swears true at all (which I do not believe), I have no occasion to question. But the night that Bergami went home, and the only night he went home at the period in question, was when the Queen was left behind at a music party in the palace of her illustrious relation to whom she was making a visit. She remained there two hours and a-half, and upwards —she remained there until between nine and ten o'clock, and she afterwards went to sup at the Margravine's, where she always supped on the evenings she did not dine there; and Bergami and his sister and child were then at home, where he was taken ill, and went to bed.

My lords, I would remind you of an argument which is used in the present case, and which I was rather surprised to hear that some persons had been so very regardless of the details, as to allow to influence their otherwise acute and ingenious minds. They say, that if this is a plot,—if the witnesses are speaking

what is untrue—they have not sworn enough; that they ought to have proved it home, as it were; that they ought to have convinced all mankind, of acts having been unequivocally done which nothing but guilt could account for, acts which were utterly inconsistent with the supposition of innocence. My lords, can those who argue thus, have forgotten two things which every man knows, one common to all cases, and the other happening in every stage of this,—namely, that the most effectual way, because the safest, of laying a plot, is not to swear too hard, is not to swear too much, or to come too directly to the point; but to lay the foundation in existing facts and real circumstances, —to knit the false with the true,—to interlace reality with fiction,—to build the fanciful fabric upon that which exists in nature,—and to escape detection by taking most especial care, as they have done here, never to have two witnesses to the same facts, and also to make the facts as moderate, and as little offensive as possible. The architects of this structure have been well aware of these principles, and have followed these known rules of fabrication throughout. At Naples, why were not other people called? Why were there never two witnesses to the same fact? Because it is dangerous; because, when you are inventing a plot, you should have one witness to a fact, and another to a confirmation; have some things true, which unimpeachable evidence can prove; other things fabricated, without which the true would be of no avail,—but avoid calling two witnesses to the same thing at the same time, because the cross-examination is extremely likely to make them contradict each other. Now, for example, my learned friend opened a case that ought to be proved by a crowd of witnesses. Is it so usual for a Princess of Wales, who is seen in a box at Naples, to go on one occasion to the theatre and be hissed, whether she was masked or no? Do the concealments of a masquerade, like the fabrications of this plot, exist

longer than from the night till the morning? Would not the hissing of such a person as the Princess, for such a cause as the indecency of her dress, have been known to all who attended the spectacle? Would it not afterwards have been believed and told by all the gossips of gay, idle Naples—

> "Et otiosa credidit Neapolis,
> Et omne vicinum oppidum."—

And yet one witness alone, instead of all Naples, appears. In like manner, we have no other evidence at Naples of general demeanour. Why have we none to speak to the state of the beds? Why none to the state of the linen? I ask, what has become of Ann Preising? I can answer that question, as well as put it. She is here. I obtained the fact from a witness in cross-examination. Why is she not called? I can answer that question too. She is not an Italian. What reason is there for not calling her? Your lordships can answer that quite as well as I can. There was every reason for calling her, if they durst have done it. The case is short without it. She could have proved those marks, —she was the Princess's maid at that time. Beds! she made them. Linen! she had the care of it. Who washed the linen? Where was the laundress, the washerwoman? And yet she is an Italian, for aught I know, though she is not called, and though her being called must have proved the case, if Demont speaks a single word of truth. They were practised in calling washerwomen. They knew the effect of it in England, in the former plot. They were called in the Douglas plot; but they did not prove much, and the plot failed. Made wise by experience, they call them not here; although they know, by that experience, that if they could have stood the examination, this plot could not have failed.

But again, my lords—am I to be told by those who have attended to this evidence, that there has been

any very great short-coming in the swearing of some of the witnesses,—that they have not sworn unequivocally,—that they have not proved the facts? Why, what more convincing proof of adultery would you have than you have had in this case, if you believe the witnesses, and they are uncontradicted? I should not indeed say, if they are uncontradicted; for I contend, that your lordships ought not to compel me to contradict such witnesses; but if you believe the witnesses, you have a case of adultery as plainly substantiated in proof as ever gained verdict in Westminster Hall, or ever procured Divorce Bill to pass through your lordships' house. All that Demont tells,—all that Majocchi tells,—every tittle of what Sacchi tells at the end of his evidence,—is proof positive of the crime of adultery. If you believe Sacchi, Bergami was seen twice going into her Majesty's bed-room, and not coming out from thence. If you believe Sacchi, adultery is the least of her crimes—she is as bad as Messalina—she is worse, or as bad as the Jacobins of Paris covered even themselves with eternal infamy by endeavouring to prove Marie Antoinette to have been.

My lords, I have another remark to make, before I leave this case. I have heard it said, by some acute sifters of evidence, "Oh! you have damaged the witnesses, but only by proving falsehoods, by proving perjury indeed, in unimportant particulars." I need but remind your lordships, that this is an observation which can only come from the lay part of the community. Any lawyer at once will see how ridiculous, if I may so speak, such an objection must always be. It springs from an entire confusion of ideas; a heedless confounding together of different things. If I am to confirm the testimony of an accomplice—if I am to set up an informer—no doubt my confirmation ought to extend to matters connected with the crime—no doubt it must be an important particular, else it will avail me nothing to prove it by way of confirmation. But it is quite the

reverse in respect to pulling down a perjured witness, or a witness suspected of swearing falsely. It is quite enough if he perjure himself in any part, to take away all credit from the whole of his testimony. Can it be said that you are to pick and choose; that you are to believe part, and reject the rest as false? You may, indeed, be convinced that a part is true, notwithstanding other parts are false—provided those parts are not falsely and wilfully sworn to by the witness, but parts which he may have been ignorant of, or may have forgotten, or may have mistaken. In this sense, you may choose—culling the part you believe, and separating the part you think contradicted. But if one part is not only not true—is not only not consistent with the fact, but is falsely and wilfully sworn to on his part—if you are satisfied that one part of his story is an invention—to use the plain word, a lie, and that he is a forsworn man—good God! my lords, what safety is there for human kind against the malice of their enemies—what chance of innocence escaping from the toils of the perjured and unprincipled conspirator, if you are to believe part of a tale, even though ten witnesses swear to it, all of whom you convict of lying and perjury in some other part of the story? I only pray your lordships to consider what it is that forms the safeguard of each and every one of you against the arts of the mercenary or the spiteful conspirator. Suppose any one man,—and let each of your lordships lay this to his mind before you dismiss the mighty topic,—suppose any one of your lordships were to meet with a misfortune, the greatest that can befall a human being, and the greater in proportion as he is of an honourable mind, whose soul is alien even to any idea or glance of suspicion of such a case being possible to himself, whose feelings shudder at the bare thought of his name even being accidentally coupled with a charge at which his nature revolts—suppose that mischance, which has happened to the best and purest of men,

which may happen to any of you to-morrow, and which if it does happen must succeed against you to-morrow, if you adopt the principle I am struggling against—suppose any one of your lordships charged by a mercenary scoundrel with the perpetration of a crime at which we show in this country our infinite horror, by almost, and with singular injustice, considering the bare charge to stand in the place of proof—suppose this plot laid to defame the fairest reputation in England—I say, that reputation must be saved, if escape it may, only by one means. No perjury can be expected to be exposed in the main, the principal part of the fabric—that can be easily defended from any attack against it; all the arts of the defendant's counsel, and all his experience, will be exhausted in vain: the plotter knows full well (as these conspirators have here done) how to take care that only one person shall swear to a fact,—to lay no others present, to choose the time and select the place when contradiction cannot be given, by knowing the time and the place where any one of your lordships, whom he marks for his prey, may have chanced to be alone at any moment of time. Contradiction is not here to be expected,—refutation is impossible. Prevarication of the witness upon the principal part of his case, beyond all doubt, by every calculation of chances, there will not be. But you will be defended by counsel; and the court before whom you are tried will assuredly have you acquitted, if the villain, who has immovably told a consistent, firm tale,—though not contradicted,—though not touched—upon the story itself,—tells the least falsehood upon the most unimportant particulars on which your advocate shall examine him. My lords, I ask for the Queen no other justice than this upon which you all rely, and must needs rely, for your own escape from the charge of unnatural crimes! I desire she may have no other safety than that which forms the only safety to any one of your lordships in such cases,

before any court that deserved the name of a court of justice, where it might be your lot to be dragged and tried!

I am told that the sphere of life in which Bergami, afterwards promoted to be the Queen's chamberlain, originally moved, compared with the fortune which has since attended him in her service, is of itself matter of suspicion. I should be sorry, my lords, to have lived to see the day, when nothing more was required to ruin any exalted character in this free country than the having shown favour to a meritorious servant, by promoting him above his rank in society, the rank of his birth. It is a lot which has happened to many a great man—which has been that of those who have become the ornaments of their country. God forbid we should ever see the time, when all ranks, all stations in this community, except the highest, were not open to all men; and that we should ever reckon it of itself a circumstance even of suspicion in any person—for neither sex can be exempt from an inference of such a nature if it is once made general and absolute, — that he has promoted an inferior to be his equal! Let me, however, remind your lordships, that the rapidity of the promotion of Bergami has been greatly overstated; and the manner in which it took place is a convincing proof, that the story of love having been the cause of it, is inconsistent with the fact. Now, this I state, from a distinct recollection of the dates in the evidence before you. Believe Majocchi or Demont, and three weeks after Bergami's arrival in the household, he was promoted to the Queen's bed. How was it with respect to her board? Because, after that, he continued in the situation of courier; he dined with the servants, and lived not even with the chamberlains; certainly not with those gentlemen, for they were at her table, as usual. He continued to dine with the servants at Genoa; there, notwithstanding Majocchi's story, it is proved to your

lordships that he did not dine with her Majesty. He continued as a courier, even after he had once sat at her Majesty's table by accident, by one of the accidents usual in travelling. It appears even in the evidence (believing it to be true), that the Queen sat at the table where he was for the space of one day. He, however, still continued a courier; and it was only on the eve of the long voyage, that he was admitted to her table, commencing with the journey to Mont St. Gothard. He continued in his situation of courier, still in livery, until, by degrees, he was promoted, first to travel in a carriage of his own, instead of riding on horseback. Then he was promoted occasionally to sit at the same table with the Queen, and at last he was appointed a chamberlain generally. My lords, this is not consistent with the story told of Naples. Show me the woman, particularly the amorous, the imprudent, the insane woman her Majesty is described to be by these perjured witnesses, who would have allowed her paramour, after indulging in all the gratifications described at Naples, for weeks and months, to continue for months, and almost for years, in an apparently menial capacity! My lords, this is not the rapidity of pace with which love promotes his favourite votaries; it much more resembles the sluggish progress with which merit wends its way in the world, and in courts. He was a man of merit, as you will hear in evidence,—if you put me on calling any. He was not of the low origin he has been described to be. He was a person whose father held the situation of a landed proprietor, though of moderate income, in the north of Italy. He had got into difficulties, as has happened to many of the Italian gentry of late years; and his son, if I mistake not, had sold the family estate, in order to pay his father's debts. He was reduced—but he was a reduced gentleman. When he was in the service of General Pino he was recognized as such. The General repeatedly favoured him as such: he has dined

at his table, General Pino being Commander-in-Chief in the Milanese. He thus sat at the table of an Italian noble in the highest station. He has dined at his table during the Spanish campaigns. He was respected in his station—he was esteemed by those whom he served at that time. They encouraged him, as knowing his former pretensions and his present merits; and when he was hired, he was proposed by a gentleman who desired to befriend and promote him, an Austrian nobleman, then living in Italy, in the Austrian service—he was proposed to the Queen's chamberlain as a courier, there being a vacancy, and was hired without the knowledge of her Majesty, and before she had even seen him. The Austrian nobleman, when he offered him as a courier, said, he fairly confessed he hoped, if Burgami behaved well, he might be promoted, because he was a man whose family had seen better days, because he was a faithful servant, and because he had ideas belonging rather to his former than to his present situation. It was almost a condition of his going, that he should go for the present as a courier, with the expectation of soon filling some other and higher place.

I do not dwell on this, my lords, as of any importance to the case; for whether I shall think it necessary to prove what I have just stated or not, I consider that I have already disposed of the case in the comments which I have made upon the evidence, and in the appeal which I have made to the general principles of criminal justice. But, as the conduct of her Majesty has been so unsparingly scrutinized, and as it is important to show that even impropriety existed not, where I utterly defy guilt to be proved, I thought it requisite to dwell on this prominent feature in the cause. If the Queen had frequented companies below her station—if she had lowered her dignity—if she had followed courses which, though not guilty ones, might be deemed improper in themselves and incon-

sistent with her high station—if she had been proved guilty of any such unworthiness—I could have trodden upon high ground still. But I have no occasion to occupy it. I say, guilt there is none—levity there is none—unworthiness there is none. But if there had been any of the latter, while I dared her accusers to the proof of guilt, admitting levity and even indecorum, I might still have appealed to that which always supports virtue in jeopardy, the course of her former life at home, among her own relations, before she was frowned upon here—while she had protection among you—while she had the most powerful of all protection, that of our late venerable monarch. I hold in my hand a testimonial—which cannot be read, and which I am sure will not be weighed, without the deepest sense of its importance; above all, without a feeling of sorrow, when we reflect upon the reign that has passed, and compare it with the rule we live under. It is a melancholy proof—more melancholy, because we no longer have him who furnishes it amongst us—but it is a proof how that illustrious sovereign viewed her, whom he knew better than all others—whom he loved more than all the rest of her family did—even than those upon whose affections she had a greater claim—nay, whom he loved better than he did almost any child of his own. The plainness, the honesty, the intelligible and manly sense of this letter are such, that I cannot refrain from the gratification of reading it. It was written in 1804:—

"WINDSOR CASTLE, *Nov.* 13, 1804.

"MY DEAREST DAUGHTER-IN-LAW AND NIECE,—Yesterday, I and the rest of my family had an interview with the Prince of Wales at Kew. Care was taken on all sides to avoid all subjects of altercation or explanation, consequently the conversation was neither instructive nor entertaining; but it leaves the Prince of Wales in a situation to show whether his desire to return to his family is only verbal or real"—(a difference which George III. never knew, except in others)—"which time alone

can show. I am not idle in my endeavours to make inquiries that may enable me to communicate some plan for the advantage of the dear child you and me with so much reason must interest ourselves in; and its effecting my having the happiness of living more with you is no small incentive to my forming some ideas on the subject; but you may depend on their being not decided upon without your thorough and cordial concurrence, for your authority as mother it is my object to support.

"Believe me, at all times, my dearest daughter-in-law and niece, your most affectionate father-in-law and uncle,

"GEORGE R."

Such, my lords, was the opinion which this good man, not ignorant of human affairs, no ill judge of human character, had formed of this near and cherished relation; and upon which, in the most delicate particulars, the care of his grand-daughter and the heir of his crown, he honestly, really, and not in mere words, always acted.

I might now read to your lordships a letter from his illustrious successor, not written in the same tone of affection—not indicative of the same feelings of regard—but by no means indicative of any want of confidence, or at least of any desire harshly to trammel his Royal Consort's conduct. I allude to a letter which has been so often before your lordships in other shapes, that I may not think it necessary to repeat it here. It is a permission to live apart, and a desire never to come together again; the expression of an opinion, that their happiness was better consulted, and pursued asunder; and a very plain indication, that her Majesty's conduct should at least not be watched with all the scrupulousness, all the rigour, all the scrutinizing agency, which has resulted in bringing the present Bill of Pains and Penalties before your lordships. [Cries of "Read, read." Mr. Brougham accordingly read the letter, as follows:]—

"MADAM,—As Lord Cholmondely informs me that you wish I would define in writing the terms upon which we are to live,

I shall endeavour to explain myself upon that head with as much clearness and with as much propriety as the nature of the subject will admit. Our inclinations are not in our power, nor should either of us be held answerable to the other because nature has not made us suitable to each other. Tranquil and comfortable society is, however, in our power; let our intercourse, therefore, be restricted to that, and I will distinctly subscribe to the condition which you required,* through Lady Cholmondely, that even in the event of any accident happening to my daughter, which I trust Providence in its mercy will avert, I shall not infringe the terms of the restriction, by proposing at any period, a connexion of a more particular nature. I shall now finally close this disagreeable correspondence, trusting, that, as we have completely explained ourselves to each other, the rest of our lives will be passed in uninterrupted tranquillity. I am, Madam, with great truth, very sincerely yours,

GEORGE P.

"WINDSOR CASTLE,
April 30, 1796."

My lords, I do not call this, as it has been termed, a Letter of Licence; such was the term applied to it, on the former occasion, by those who are now, unhappily for the Queen, no more,—those who were the colleagues and the coadjutors of the present ministers,—but I think it such an epistle as would make it matter of natural wonderment to the person who received it, that her conduct should ever after,—and especially the more rigorously the older the parties were growing—become the subject of the most unceasing and unscrupulous watching, prying, spying, and investigation.

Such then, my lords, is this Case. And again let me call on you, even at the risk of repetition, never to dismiss for a moment from your minds, the two great points upon which I rest my attack upon the evidence;—first, that the accusers have not proved the facts by the good witnesses who were within their reach, whom they had no shadow of pretext for not calling;—and

* The Queen to her last hour positively denied ever having required any such condition, or having ever made any allusion to the subject of it.

secondly, that the witnesses whom they have ventured to call are, every one of them, irreparably damaged in their credit. How, I again ask, is a plot ever to be discovered, except by the means of these two principles? Nay, there are instances, in which plots have been discovered, through the medium of the second principle, when the first had happened to fail. When venerable witnesses have been seen brought forward—when persons above all suspicion have lent themselves for a season to impure plans—when no escape for the guiltless seemed open, no chance of safety to remain—they have almost providentially escaped from the snare by the second of those two principles; by the evidence breaking down where it was not expected to be sifted; by a weak point being found, where no provision, from the attack being unforeseen, had been made to support it. Your lordships recollect that great passage—I say great, for it is poetically just and eloquent, even were it not inspired—in the Sacred Writings, where the Elders had joined themselves in a plot which had appeared to have succeeded, "for that," as the Book says, "they had hardened their hearts, and had turned away their eyes, that they might not look at Heaven, and that they might do the purposes of unjust judgments." But they, though giving a clear, consistent, uncontradicted story, were disappointed, and their victim was rescued from their gripe, by the trifling circumstance of a contradiction about a tamarisk tree. Let not man call those contradictions of those falsehoods which false witnesses swear to from needless and heedless falsehood, such as Sacchi about his changing his name—or such as Demont about her letters—such as Majocchi about the banker's clerk—or such as all the other contradictions and falsehoods not going to the main body of the case, but to the main body of the credit of the witnesses—let not men rashly and blindly, call these things accidents. They are just rather than merciful dispensations of that Providence, which wills

not that the guilty should triumph, and which favourably protects the innocent!

Such, my lords, is the Case now before you! Such is the evidence in support of this measure—evidence inadequate to prove a debt—impotent to deprive of a civil right—ridiculous to convict of the lowest offence—scandalous if brought forward to support a charge of the highest nature which the law knows—monstrous to ruin the honour, to blast the name of an English Queen! What shall I say, then, if this is the proof by which an act of judicial legislation, a parliamentary sentence, an *ex post facto* law, is sought to be passed against this defenceless woman? My lords, I pray you to pause. I do earnestly beseech you to take heed! You are standing upon the brink of a precipice—then beware! It will go forth your judgment, if sentence shall go against the Queen. But it will be the only judgment you ever pronounced, which, instead of reaching its object, will return and bound back upon those who give it. Save the country, my lords, from the horrors of this catastrophe—save yourselves from this peril—rescue that country, of which you are the ornaments, but in which you can flourish no longer, when severed from the people, than the blossom when cut off from the roots and the stem of the tree. Save that country, that you may continue to adorn it—save the Crown, which is in jeopardy—the Aristocracy, which is shaken—save the Altar, which must stagger with the blow that rends its kindred Throne! You have said, my lords, you have willed—the Church and the King have willed—that the Queen should be deprived of its solemn service. She has instead of that solemnity, the heartfelt prayers of the people. She wants no prayers of mine. But I do here pour forth my humble supplications at the Throne of Mercy, that that mercy may be poured down upon the people, in a larger measure than the

merits of their rulers may deserve, and that your hearts may be turned to justice!

[Mr. Brougham finding the impression made by his case upon the House to be very strong, resolved at once to present Mariette Bron for examination, and instantly to call for judgment. With this view he left the House to summon the witness; but she was not to be found; Mr. Williams, therefore, proceeded with his truly able and, to the elucidation of the case, invaluable argument; and afterwards some suspicious circumstances came to the knowledge of her Majesty's advisers which made it impossible to call her maid with any regard to the interests of justice.]

SPEECH

ON

OPENING THE PROSECUTION

AGAINST

RICHARD BLACOW, Clerk.

INTRODUCTION.

Queen Caroline was at all times extremely averse to Prosecutions for Libel. She had early in her life, that is to say, soon after the course of her persecutions commenced, well considered the subject, and become aware of the extremely unsatisfactory state of our law regarding the offences of the press. The result of all her reflection and observation upon the subject was, that the submitting to slander was the lesser evil, and that legal proceedings only made the injury more severe, by giving the invectives a more extensive circulation. She felt that, by prosecuting a libel, she lent herself to the designs of the slanderer, and suffered so much the more, only in order that others might be deterred from publishing their calumnies against other individuals, probably against her enemies themselves. Add to this, that she was of a fearless nature, and never doubted that the efforts of malice would fail to affect her general reputation.

This aversion to all penal proceedings was certainly not diminished by the trial before the Lords, if a word usually consecrated to the administration of justice may be prostituted to describe the case of 1820, in which it would be hard to say whether greater violence was done to the forms of justice, or a more entire disregard shown to its substance. She had been kept for many months in a state of annoyance and vexation, of irritation and suspense, during those shameful proceedings, which, regulated by no principles known in

courts of law, were calculated to affright the person most conscious of innocence, and to make every observer feel that the event depended as little upon the real merits of the case, as any division in either House of Parliament upon a party question turns upon the soundness of the arguments advanced in the debate, or the personal qualities of the different speakers. She was compelled to bear with her advisers, while they were discussing the propriety of prosecuting the perjured witnesses, although she felt rather relieved than disappointed when it was found that technical difficulties stood in the way of any such course being taken. But she had a very decided aversion to going before the legal tribunals, and being involved in a lengthened litigation, well knowing how unsatisfactory the result might prove, and how little likely a conviction was to silence the calumniators, who were hired and set on by a Court wholly unscrupulous in using the strong influence which it possessed over the press, and the ample resources of corruption placed at its disposal. After the tempestuous scene through which she had just passed, tranquillity was the object of all her wishes; and she felt confident that her conduct would be rightly appreciated by the country at large, how active soever her unprincipled adversaries might be in the dissemination of their slanders. Her wishes accordingly prevailed; and the consequence was, that the press was polluted with a degree of malignity and impurity before wholly unknown. Newspapers that used formerly to maintain some character for liberality towards political adversaries, became the daily and weekly vehicles of personal abuse against all who took the Queen's part. Journals which had never suffered their pages to be defiled by calumnies against individuals, nor ever had invaded the privacy of domestic life for the unworthy purpose of inflicting pain upon the families of political enemies, devoted their columns to the reception of scandal against men,

and even women, who happened to be connected with the Queen's supporters. As if the publications already established were too few for the slanderer's purpose, or too scrupulous in lending themselves to his views, new papers were established with the professed object of maintaining a constant war against all who espoused her Majesty's cause. Nay, it was enough that any persons, of any age or of either sex, held any intercourse whatever with that illustrious Princess, to make their whole life and conversation the subject of unsparing severity and unmeasured and unmanly vituperation. A single error, far short of fault, once detected, was made the nucleus round which were gathered all the falsehoods which a slanderous and malignant fury could invent; and the defects of the law being well known to those who had studied them in order to evade its sanctions, little fear was entertained of the propagation of those falsehoods being visited with punishment, as long as any the least imperfection existed in any one's conduct, which could not be denied upon oath. In one respect, the whole thing was so much overdone, that it failed to produce its full effect. Slander, like everything else, may be made so abundant as to lose its value. Fierce and indiscriminate calumnies daily and weekly circulated in journals, and in pamphlets, and in private society, began to lose their relish, and to pall upon the appetite which, by loading it to excess, they ceased to provoke. After a little while people began to care very much less for these attacks; they seemed to be considered as matters of course; and it was found that the Press had lost the greater part of its power as regarded invectives or imputations. Nay, so many things were published, notoriously without the least foundation, that the truths which from time to time became mixed with the falsehoods, shared the same fate, and all were disbelieved alike; nor did persons of indifferent life and doubtful fame fail to feel the comforts of their

new position, kept in countenance as they now were by the most respected individuals, whose hitherto unassailed character was as much the prey of the prevailing malignant epidemic, as their own more frail reputations. Thus the press not only ceased to have its appropriate effect of encouraging virtue and controlling vice, but it operated as some little annoyance to the good, while it cherished and protected the bad: all men perceiving that the purest life was no kind of security against its assaults, while it confounded the licentious with the blameless, causing its showers to fall alike on the just and the unjust.

To the Queen's resolution against prosecuting her slanderers, her advisers adhered throughout with one remarkable exception. A reverend clergyman of the Established Church thought fit, in the discharge of his sacred duties, to preach a sermon abounding in the most gross scurrility. The main subject of his attack was her Majesty's going in procession to St. Paul's Cathedral, where she attended divine service in the month of November, to offer up thanks for her providential deliverance from her enemies; and was surrounded by countless thousands of the people, her steady and unflinching supporters. The wonderful spectacle which the great capital of the empire exhibited on that remarkable occasion, has never perhaps been adequately described. But it perhaps may be better understood if we add, that those who witnessed the extraordinary pomp of her present Majesty's visit to the Guildhall Banquet in November, 1837, and who also recollect the far more simple and unbought grandeur of the former occasion, treat any comparison between the two as altogether ridiculous. When Queen Caroline went to celebrate her triumph, and to thank God for "giving her the victory over all her enemies," the eye was met by no troops—no body guards—no vain profusion of wealth—no costly equipages—no gorgeous attire—no heaving up of gold—

no pride of heraldry—no pomp of power, except indeed the might that slumbered in the arms of myriads ready to die in her defence. But in place of all this, there was that which the late solemnity wanted—a real occasion. It was the difference between make-believe and reality—between play and work—between representation and business—between the drama and the deed. When the young Queen moved through the crowd of her subjects, she saw thousands of countenances lit up with hope, and beaming with good-will, and hundreds of thousands of faces animated with mere curiosity. Queen Caroline had been oftentimes seen by all who then beheld her; she had been long known to them; her whole life had but recently been the subject of relentless scrutiny; hope from her of any kind there was none. All that she was ever likely to do, she had already done; but she had been despitefully used and persecuted; she had faced her enemies and defied their threats—dared them to the combat, and routed them with disgrace. In her person justice had triumphed; the people had stood by her, and had shared in her immortal victory. The solemnity of November, 1820, was the celebration of that great event, and although they who partook of it had no sordid interests to pursue, no selfish feeling of any kind to gratify; although they were doing an act that instead of winning any smile from royalty, drew down the frowns of power, and were steering counter to the stream of court favour, adown which Englishmen, of all people in the world, are the most delighted to glide; yet the occasion was one of such real feeling, so much the commemoration of a real and a great event, and the display of practical and determined feelings pointed to so precisely defined and important an object, that its excitement baffles all description, and cannot be easily comprehended by those who only witnessed the comparatively tame and unmeaning pageant of November, 1837.

In the proportion of its interest to the people at

large, was the indignation which this celebrated festival excited at Court; and the time-servers speedily finding that they could not in anything so well recommend themselves to favour in high quarters as by attacking this solemnity in any way, lost no time in opening their batteries of slander. According to the plan which had been adopted by her Majesty's advisers, all the ordinary herd of libellers were suffered to exhaust their malice unresented as unprovoked. But a sermon preached to a large congregation, and one of exemplary piety, by a Minister of the Established Church, and one laying claims to extraordinary sanctity of life and fervour of religious feeling, could not be thus passed over. Her Majesty's Attorney-General therefore moved the Court of King's Bench for a Criminal Information against Mr. Blacow the offender; and obtained a Rule to show cause upon a simple affidavit setting forth the fact of the slander and the publication by preaching, but not denying the matters alleged. It was found upon examining the precedents and the other authorities, that the Queen-Consort had a right to have her Rule without the usual affidavit of denial, and that it would be irregular to make this affidavit. Her Majesty was quite prepared, and indeed she wished, to deny upon oath the whole matter laid to her charge; but her inclination was over-ruled, on the result of the search for precedents. No cause was shown by the defendant; and the trial coming on at Lancaster, Mr. Brougham who had obtained the rule while he held the office of Attorney-General to the Queen, led for the prosecution, in opening which, the following speech was delivered. The reverend defendant was his own counsel, and made a long abusive speech, full of every kind of irrelevant matter, and continually interrupted and threatened with punishment by Mr. Justice Holroyd, the learned judge who tried the cause. The jury without hesitation found him guilty.

During the interval between the Information being

obtained and tried, an event happened which gave a peculiarly mournful interest to the proceeding—the death of this great Princess, who fell a sacrifice to the unwearied and unrelenting persecution of her enemies. A circumstance well fitted to disarm any malignity merely human, seemed only to inspire fresh bitterness and new fury into the breast of the ferocious priest. The indignation and disgust of the country was roused to its highest pitch by the unbridled violence of his defence; and when men regarded the groundlessness of those charges of which it was made up, against all he had occasion to mention, they were forcibly reminded of a remarkable passage in Dr. King's lately published History of the Rebellion of 1745, a favourite Jacobite production,—"Blacones apud Anglos sunt infames delatores, gigantum filii; quos naturâ malevolos spes præmii induxit in summum scelus: qui quum castos et integerrimos viros accusare soleant, omnia confingunt, et non modò perjuria sua vendunt, verum etiam alios impellunt ad pejerandum: Nomen sumunt a Blacow quodam sacerdote, qui ob nefarias suas delationes donatus est canonicatu Vindsoriensi a regni præfecto."

This man was brought up for judgment in the following Michaelmas term, and only sentenced by the Court of King's Bench to three months' imprisonment, —Messrs. Hunt having suffered a confinement of two years, and paid a fine of £1,000 for a far less slanderous attack on the Regent in 1802; and Mr. Drakard having, as we have seen, been confined eighteen months, for publishing some remarks on military punishments, which a Middlesex jury had just before pronounced to be no libel at all. Three years after Blacow's trial, Mr. D. W. Harvey and his printer were tried in the Court of King's Bench for a libel upon George IV. in a country paper published by them. It represented that sovereign as guilty of almost every crime which a prince can commit; and

further charged him with having rejoiced exceedingly at the death of his wife, his brother, and especially his only child, the Princess Charlotte. It was, perhaps, the worst case of libel ever brought before the court. When the defendants were brought up for judgment, they appeared without any counsel; but just as the sentence was about being pronounced, Mr. Brougham, who with Mr. Denman had defended them at the trial, beckoned to Mr. Harvey, who crossed the court apparently to receive some suggestion for his speech in mitigation of punishment. He then addressed the court, and on his concluding, was again beckoned to by his counsel, as if he had still omitted something. The court complained of this interference, as Mr. Brougham was not then retained for either of the defendants. Whereupon he stated that the reason why he had made Mr. Harvey cross the court was to suggest, what he now took leave to do as *amicus curiæ*, that Mr. Blacow for his scandalous sermon against the late Queen, had only been sentenced to three months' imprisonment, and that of course more could not be given in the present case. Their lordships expressed much displeasure at this interference, seeming not to set a high value upon the "*amicitia curiæ*," which had been testified; but after a short consultation, they sentenced Mr. Harvey and his co-defendant to the same period of confinement with Mr. Blacow.

CASE OF

RICHARD BLACOW.

COURT OF COMMON PLEAS, LANCASTER—SEPTEMBER, 1821.

MAY IT PLEASE YOUR LORDSHIP, GENTLEMEN OF THE JURY,—It is my painful duty to bring before you the particulars of this case; it is yours to try it; and my part shall be performed in a very short time indeed; for I have little, if anything, more to do, than merely to read what I will not characterize by words of my own; but I will leave to you, and I may leave to every man whose judgment is not perverted and whose heart is not corrupt, to affix the proper description to the writing, and his fitting character to the author. I will read to you what the defendant composed and printed; and I need do no more. You have heard from my learned friend,—and if you still have any doubt, it will soon be removed,—to whom the following passage applies. Of the late Queen it is that this passage is written and published.

"The term 'cowardly' which they have now laid to my charge, I think you will do me the justice to say, does not belong to me; that feeling was never an inmate of my bosom; neither when the Jacobins raged around us with all their fury, nor in the present days of radical uproar and delusion. The latter, indeed, it must be allowed, have one feature about them even more hideous and disgusting than the Jacobins themselves. They fell down and worshipped the goddess of reason, a most respectable and decent

sort of being."—And you know, gentlemen, that she was a common prostitute, taken from the stews of Paris.—"A most respectable and decent sort of being compared with that which the radicals have set up as the idol of their worship. They have elevated the goddess of lust on the pedestal of shame; an object of all others the most congenial to their taste, the most deserving of their homage, the most worthy of their adoration. After exhibiting her claims to their favour in two distinct quarters of the globe; after compassing sea and land with her guilty paramour, to gratify to the full her impure desires, and even polluting the Holy Sepulchre itself with her presence, to which she was carried in mock majesty astride upon an ass,—she returned to this hallowed soil so hardened in sin,—so bronzed with infamy,—so callous to every feeling of decency or shame, as to go on Sunday last" —here, gentlemen, the reverend preacher alluded not to the public procession to St. Paul's—where her late Majesty returned thanks for her delivery,—or to other processions which might, partly at least, be considered as political,—but to her humble, unaffected, pious devotions in the church of Hammersmith,—"to go on Sunday last clothed in the mantle of adultery, to kneel down at the altar of that God who is 'of purer eyes than to behold iniquity,' when she ought rather to have stood barefooted in the aisle, covered with a shirt as white as 'unsunned snow,' doing penance for her sins. Till this had been done, I would never have defiled my hands by placing the sacred symbols in hers; and this she would have been compelled to do in those good old days when Church discipline was in pristine vigour and activity."

Gentlemen, the author of this scandalous, this infamous libel, is a minister of the Gospel. The libel is a sermon,—the act of publication was preaching it —the place was his church—the day was the Sabbath —the audience was his flock. Far be it from me to

treat lightly that office of which he wears the outward vestments, and which he by his conduct profanes. A pious, humble, inoffensive, charitable minister of the gospel of peace, is truly entitled to the tribute of affection and respect which is ever cheerfully bestowed. But I know no title to our love or our veneration which is possessed by a meddling, intriguing, unquiet, turbulent priest, even when he chooses to separate his sacred office from his profane acts; far less when he mixes up both together—when he refrains not from polluting the sanctuary itself with calumny—when he not only invades the sacred circle of domestic life with the weapons of malicious scandal, but enters the hallowed threshold of the temple with the torch of slander in his hand, and casts it flaming on the altar; poisons with rank calumnies the air which he especially is bound to preserve holy and pure—making the worship of God the means of injuring his neighbour; and defiling by his foul slanders the ears, and by his false doctrines perverting the minds, and by his wicked example tainting the lives of the flock committed by Christ to his care!

Of the defendant's motives I say nothing. I care not what they were; for innocent they could not be. I care not whether he was paying court to some patron, or looking up with a general aspect of sycophancy to the bounty of power, or whether it was mere mischief and wickedness, or whether the outrage proceeds from sordid and malignant feelings combined, and was the base offspring of an union not unnatural however illegitimate, between interest and spite. But be his motives of a darker or lighter shade, innocent they could not have been: and unless the passage I have read proceeded from innocency, it would be a libel on you to doubt that you will find it a libel.

Of the illustrious and ill-fated individual who was the object of this unprovoked attack, I forbear to speak. She is now removed from such low strife, and there is

an end, I cannot say of her chequered life; for her existence was one continued scene of suffering—of disquiet—of torment from injustice, oppression, and animosity—by all who either held or looked up to emolument or aggrandizement—all who either possessed or coveted them—but the grave has closed over her unrelenting persecutions. Unrelenting I may well call them, for they have not spared her ashes. The evil passions which beset her steps in life, have not ceased to pursue her memory, with a resentment more relentless, more implacable than death. But it is yours to vindicate the broken laws of your country. If your verdict shall have no effect on the defendant, —if he still go on unrepenting and unabashed,—it will at least teach others, or it will warn them and deter them from violating the decency of private life, betraying sacred public duties, and insulting the majesty of the Law.

SPEECH

IN THE TRIAL FOR LIBEL

ON

THE DURHAM CLERGY.

INTRODUCTION.

When the late Queen Caroline, yielding to the altogether unexampled course of persecution in every form under which she had suffered, was stricken with a mortal sickness, the immediate consequence of mental distress, parties were variously affected by the intelligence that her life was in danger. The people universally and with but little distinction of party or of sect, were thrown into a state of the most painful anxiety, and waited in suspense the arrival of the tidings which were to confirm or to dissipate the prevailing gloom. After a passing interval of better prospects, all hope was soon banished by information that she was given over; and the news of her decease, which happened on the 7th of August, 1821, followed immediately after. In all the places where the event was made known, and where no undue influence or superior authority was exerted to suppress the public feelings, the utmost concern was manifested, not unaccompanied with indignation at the author of those wrongs which had led to this sorrowful event. Among the more ordinary, and therefore, if displayed, the more unimportant manifestations of concern, was that of tolling the bells in cathedrals and churches, the constant mark of respect paid to all the royal family, even the most insignificant and the least popular,—a ceremony so much of course that nothing could give it any importance except the rudeness or the servility which might obstruct its being performed. Accordingly, the tribute of respect

had almost universally been paid, and had excited no comment anywhere. It was reserved for the heads of the Durham Cathedral to form an exception, the only exception of any importance, to the general course of conduct pursued upon this mournful occasion. They would not suffer the bells of that venerable edifice to be tolled in the wonted manner.

It might have been thought that even had it been decent for churchmen to take part in such a controversy, and during the Queen's life to side with the oppressors against the injured party, the event which removed the latter from all worldly concerns would have allayed also the animosity of her clerical antagonists; and that, though they had refused her the benefit of their prayers while living, they would not make themselves the solitary exception among Chapters and other Collegiate bodies, to the regular course of paying an accustomed mark of respect to the consort of the sovereign, now only known to them as one whose death had made his Majesty a widower, and enabled him to gratify his desires without violating his own conjugal duties. These reverend personages, however, thought otherwise; they forbade their bells to toll; and the consequence was some remarks in the *Durham Chronicle*, a provincial paper long distinguished for its steady though temperate support of liberal opinions, both on civil and on ecclesiastical subjects. These remarks were as follows, and they were published on the 10th of August, while the event was fresh in the recollection of all, and the feeling had not subsided which it was calculated to excite.

"So far as we have been able to judge from the accounts in the public papers, a mark of respect to her late Majesty has been almost universally paid throughout the kingdom, when the painful tidings of her decease were received, by tolling the bells of the Cathedrals and Churches. But there is one exception to this very creditable fact which demands especial notice. In this episcopal city, containing six churches independently of the cathedral, not a single bell announced the departure of the

magnanimous spirit of the most injured of Queens,—the most persecuted of women. Thus the brutal enmity of those who embittered her mortal existence pursues her in her shroud.

"We know not whether any actual orders were issued to prevent this customary sign of mourning; but the omission plainly indicates the kind of spirit which predominates among our clergy. Yet these men profess to be followers of Jesus Christ, to walk in his footsteps, to teach his precepts, to inculcate his spirit, to promote harmony, charity, and Christian love! Out upon such hypocrisy! It is such conduct which renders the very name of our established clergy odious till it stinks in the nostrils; that makes our churches look like deserted sepulchres, rather than temples of the living God; that raises up conventicles in every corner, and increases the brood of wild fanatics and enthusiasts; that causes our beneficed dignitaries to be regarded as usurpers of their possessions; that deprives them of all pastoral influence and respect; that in short has left them no support or prop in the attachment or veneration of the people. Sensible of the decline of their spiritual and moral influence, they cling to temporal power, and lose in their officiousness in political matters, even the semblance of the character of ministers of religion. It is impossible that such a system can last. It is at war with the spirit of the age, as well as with justice and reason, and the beetles who crawl about amidst its holes and crevices, act as if they were striving to provoke and accelerate the blow, which, sooner or later, will inevitably crush the whole fabric and level it with the dust."

In the Court of King's Bench, Mr. Scarlett, then Attorney-General for the County Palatine, obtained on the 14th November a Rule to show cause why a Criminal Information should not be filed against John Ambrose Williams, as the reputed publisher of this paragraph, who indeed never denied that he was also its author. The Rule was, not without hesitation on the part of the Court, made absolute, there being, indeed, no similar instance of a Rule so granted, where the party applying and having no Royal Privilege, did not deny upon oath the matters charged against him in the alleged libel. It was not very easy to support by precedents a prosecution in this form, instituted for a libel against a body so little defined as "the Clergy of Durham;" still less such a body as the Information

afterwards filed terms them, "the Clergy residing in and near the city of Durham;" there being no means of ascertaining what distance this included, and consequently who the parties libelled really were. But it was a novelty still greater and more alarming to receive as prosecutors by Criminal Information a party who, under the shelter of this vagueness, made no affidavit of the falsehood of the charge, and thus escaped the performance of that condition under which all other parties are laid by the Rules of the court when they apply for its extraordinary interposition, instead of proceeding by Indictment.

The Rule being thus made absolute, the Information was filed, and went down to trial at the next summer assizes for the County Palatine, where it excited extraordinary interest from the parties, the subject, and the spirit of political animosity prevailing between the College and a large portion of the community. The cause was tried before Mr. Baron Wood, and the speech in Mr. Williams's defence, which follows, was made on this extraordinary proceeding. The jury were enclosed for above five hours, and returned a verdict which restricted the libel, and again raised one of the questions on the record, which had been argued in showing cause against the Rule. The verdict was, "Guilty of publishing a libel against the clergy residing in and near the city of Durham and the suburbs thereof."

The defendant, accordingly, next Michaelmas term, moved in arrest of judgment, and also for a new trial. The result was, that Mr. Brougham obtained a Rule to show cause, but the matter stood over, the prosecutors never showing any cause, and consequently no judgment was ever pronounced, either upon the Rule or upon the defendant,—who thus was let go free as if he had been acquitted altogether by the jury. It was the general opinion of Westminster Hall, that no judgment could have been given upon the verdict which had been found. It was all but the general opinion there, that

the granting this Rule for a libel so conceived, and above all, without the usual denial on the prosecutor's oath, was a wide and wholly unprecedented departure from the established practice in this most delicate and important matter, and the precedent now made has certainly never since been followed.

The speech delivered on the trial at Durham naturally excited much attention at the time, from the nature of the subject; and perhaps this was increased by the notion which prevailed, that individuals of the cathedral were alluded to in it. But for this there could be no foundation. It was uniformly denied by Mr. Brougham; whose professional duty, while it required him freely to discuss the merits of the Chapitral establishment and the conduct as a body of those forming its present members, certainly did not call for any singling out of individuals; much less for any digression from the act with which alone they were charged, namely, showing disrespect, for party purposes, towards the memory of the late Queen. The Chapter consisted of many most worthy, pious, learned, and able individuals; and though, while under the influence of party feelings, which clergymen ought never to indulge, they had been led astray on the particular occasion, their general conduct was not in question, and was not made the subject of forensic discussion, either at the trial or in the court above.

LIBEL ON

THE CLERGY OF DURHAM.

DURHAM ASSIZES,—AUGUST, 9, 1822.

MAY IT PLEASE YOUR LORDSHIP,—GENTLEMEN OF THE JURY,—My learned friend, the Attorney-General for the Bishop of Durham, having at considerable length offered to you various conjectures as to the line of defence which he supposed I should pursue upon this occasion; having nearly exhausted every topic which I was *not* very likely to urge, and elaborately traced, with much fancy, all the ground on which I could hardly be expected to tread—perhaps it may be as well that *I* should now in my turn, take the liberty of stating to you what really *is* the defendant's case, and that you should know from myself what I *do* intend to lay before you. As my learned friend has indulged in so many remarks upon what I shall not say, I may take leave to offer a single observation on what he has said; and I think I may appeal to any one of you who ever served upon a jury, or witnessed a trial, and ask if you ever, before this day, saw a public prosecutor who stated his case with so much art and ingenuity—wrought up his argument with such pains—wandered into so large a field of declamation—or altogether performed his task in so elaborate and eloquent a fashion as the Attorney-General has done upon the present occasion. I do not blame this course. I venture not even to criticise the discretion he has exercised in the management of his cause; and I am far indeed from

complaining of it. But I call upon you to declare that inference which I think you must already have drawn in your own minds, and come to that conclusion at which I certainly have arrived—that he felt what a labouring case he had—that he was aware how very different his situation to-day is from any he ever before knew in a prosecution for libel—and that the extraordinary pressure of the difficulties he had to struggle with, drove him to so unusual a course. He has called the defendant "*that unhappy man.*" Unhappy he will be indeed, but not the only unhappy man in this country, if the doctrines laid down by my learned friend are sanctioned by your verdict; for those doctrines, I fearlessly tell you, must, if established, inevitably destroy the whole liberties of us all. Not that he has ventured to deny the right of discussion generally upon all subjects, even upon the present, or to screen from free inquiry the foundations of the Established Church, and the conduct of its ministers as a body (which I shall satisfy you are not even commented on in the publication before you). Far from my learned friend is it to impugn those rights in the abstract; nor indeed have I ever yet heard a prosecutor for libel—an Attorney-General (and I have seen a good many in my time), whether of our Lord the King or our Lord of Durham, who, while in the act of crushing everything like unfettered discussion, did not preface his address to the jury with "God forbid that the fullest inquiry should not be allowed;" but then the admission had invariably a condition following close behind, which entirely retracted the concession—"provided always the discussion be carried on harmlessly, temperately, calmly"—that is to say, in such a manner as to leave the subject untouched, and the reader unmoved; to satisfy the public prosecutor, and to please the persons attacked.

My learned friend has asked if the defendant knows that the Church is established by law? He does know it,

and so do I. The Church is established by law, as the civil government—as all the institutions of the country are established by law—as all the offices under the Crown are established by law, and as all who fill them are by the law protected. It is not more established, nor more protected, than those institutions, officers, and office-bearers, each of which is recognized and favoured by the law as much as the Church; but I never yet have heard, and I trust I never shall;—least of all do I expect in the lesson which your verdict this day will read, to hear,—that those officers and office-bearers, and all those institutions, sacred and secular, and the conduct of all, whether laymen or priests, who administer them, are not the fair subjects of open, untrammelled, manly, zealous, and even vehement discussion, as long as this country pretends to a liberty, and prides herself on the possession of a Free Press.

In the publication before you the defendant has not attempted to dispute the high character of the Church; on that establishment or its members generally, he has not endeavoured to fix any stigma. Those topics, then, are foreign to the present inquiry, and I have no interest in discussing them; yet after what has fallen from my learned friend, it is fitting that I should claim for this defendant, and for all others, the right to question, freely to question, not only the conduct of the ministers of the Established Church, but even the foundations of the Church itself. It is, indeed, unnecessary for my present purpose, because I shall demonstrate that the paper before you does not touch upon those points; but unnecessary though it be, as my learned friend has defied me, I shall follow him into the field, and say, that if there is any one of the institutions of the country, which more emphatically than all the rest, justifies us in arguing strongly, feeling powerfully, and expressing our sentiments as well as urging our reasons with vehemence, it is that branch of the state which, because it is sacred, because it bears connexion

with higher principles than any involved in the mere management of worldly concerns, for that very reason, entwines itself with deeper feelings, and must needs be discussed, if discussed at all, with more warmth and zeal than any other part of our system is fitted to rouse. But if any hierarchy in all the world is bound on every principle of consistency — if any Church should be forward not only to suffer but provoke discussion, to stand upon that title and challenge the most unreserved inquiry,—it is the Protestant Church of England; first, because she has nothing to dread from it; secondly, because she is the very creature of free inquiry—the offspring of repeated revolutions—and the most reformed of the reformed Churches of Europe. But surely if there is any one corner of Protestant Europe where men ought not to be rigorously judged in ecclesiastical controversy—where a large allowance should be made for the conflict of irreconcilable opinions —where the harshness of jarring tenets should be patiently borne, and strong, or even violent language, be not too narrowly watched—it is this very realm, in which we live under three different ecclesiastical orders, and owe allegiance to a sovereign, who, in one of his kingdoms, is the head of the Church, acknowledged as such by all men; while, in another, neither he nor any earthly being is allowed to assume that name—a realm composed of three great divisions, in one of which Prelacy is favoured by law and approved in practice by an Episcopalian people; while in another, it is protected indeed by law, but abjured in practice by a nation of sectaries, Catholic and Presbyterian; and in a third, it is abhorred alike by law and in practice, repudiated by the whole institutions of the country, scorned and detested by the whole of its inhabitants. His Majesty, almost at the time in which I am speaking, is about to make a progress through the northern provinces of this island, accompanied by certain of his chosen counsellors, a portion of men who enjoy unenvied, and in

an equal degree, the admiration of other countries, and the wonder of their own—and there the Prince will see much loyalty, great learning, some splendour, the remains of an ancient monarchy, and of the institutions which made it flourish. But one thing he will not see. Strange as it may seem, and to many who hear me incredible, from one end of the country to the other he will see no such thing as a bishop; not such a thing is to be found from the Tweed to John o' Groats; not a mitre; no, nor so much as a minor canon, or even a rural dean; and in all the land not one single curate—so entirely rude and barbarous are they in Scotland; in such outer darkness do they sit, that they support no cathedrals, maintain no pluralists, suffer no non-residence; nay, the poor benighted creatures are ignorant even of tithes. Not a sheaf, or a lamb, or a pig, or the value of a plough-penny do the hapless mortals render from year's end to year's end! Piteous as their lot is, what makes it infinitely more touching is to witness the return of good for evil in the demeanour of this wretched race. Under all this cruel neglect of their spiritual concerns, they are actually the most loyal, contented, moral, and religious people anywhere, perhaps, to be found in the world. Let us hope (many, indeed, there are, not afar off, who will with unfeigned devotion pray) that his Majesty may return safe from the dangers of his excursion into such a country—an excursion most perilous to a certain portion of the Church, should his royal mind be infected with a taste for cheap establishments, a working clergy, and a pious congregation.

But compassion for our brethren in the north has drawn me aside from my purpose, which was merely to remind you how preposterous it is in a country of which the ecclesiastical polity is framed upon plans so discordant, and the religious tenets themselves are so various, to require any very measured expression of men's opinions, upon questions of church government.

And if there is any part of England in which an ample license ought more especially to be admitted in handling such matters, I say without hesitation it is this very Bishopric, where, in the nineteenth century, you live under a Palatine Prince, the Lord of Durham; where the endowment of the hierarchy, I may not call it enormous, but I trust I shall be permitted without offence to term splendid; where the establishment I dare not whisper proves grinding to the people, but I will rather say is an incalculable, an inscrutable blessing—only it *is* prodigiously large; showered down in a profusion somewhat overpowering; and laying the inhabitants under a load of obligation overwhelming by its weight. It is in Durham where the Church is endowed with a splendour and a power, unknown in monkish times and popish countries, and the clergy swarm in every corner, an' it were the patrimony of St. Peter,—it is here where all manner of conflicts are at each moment inevitable between the people and the priests, that I feel myself warranted on *their* behalf, and for *their* protection,—for the sake of the Establishment, and as the discreet advocate of that Church and that clergy,—for the defence of their very existence,—to demand the most unrestrained discussion for their title and their actings under it. For them in this age, to screen their conduct from investigation is to stand self-convicted; to shrink from the discussion of their title, is to confess a flaw. He must be the most shallow, the most blind of mortals, who does not at once perceive that if that title is protected only by the strong arm of the law, it becomes not worth the parchment on which it is engrossed, or the wax that dangles to it for a seal. I have hitherto all along assumed, that there is nothing impure in the practice under the system; I am admitting that every person engaged in its administration does every one act which he ought, and which the law expects him to do; I am supposing that up to this hour not one unworthy member has

entered within its pale; I am even presuming that up to this moment not one of those individuals has stept beyond the strict line of his sacred functions, or given the slightest offence or annoyance to any human being. I am taking it for granted that they all act the part of good shepherds, making the welfare of their flock their first care, and only occasionally bethinking them of shearing in order to prevent the too luxuriant growth of the fleece proving an incumbrance, or to eradicate disease. If, however, those operations be so constant that the flock actually live under the knife; if the shepherds are so numerous, and employ so large a troop of the watchful and eager animals that attend them (some of them too with a cross of the fox, or even the wolf, in their breed), can it be wondered at, if the poor creatures thus fleeced, and hunted, and barked at, and snapped at, and from time to time worried, should now and then bleat, dream of preferring the rot to the shears, and draw invidious, possibly disadvantageous, comparisons between the wolf without, and the shepherd within the fold?—It cannot be helped; it is in the nature of things that suffering should beget complaint; but for those who have caused the pain to complain of the outcry and seek to punish it,—for those who have goaded, to scourge and to gag, is the meanest of all injustice. It is, moreover, the most pitiful folly for the clergy to think of retaining their power, privileges, and enormous wealth, without allowing free vent for complaints against abuses in the Establishment and delinquency in its members; and in this prosecution they have displayed that folly in its supreme degree. I will even put it that there has been an attack on the hierarchy itself; I do so for argument's sake only; denying all the while, that anything like such an attack is to be found within the four corners of this publication. But suppose it had been otherwise; I will show you the sort of language in which the wisest and the best of our countrymen

have spoken of that Establishment. I am about to read a passage in the immortal writings of one of the greatest men, I may say, indeed, the greatest genius, which this country, or Europe, has in modern times produced. You shall hear what the learned and pious Milton has said of prelacy. He is arguing against an episcopalian antagonist whom, from his worldly and unscriptural doctrines, he calls a "*Carnal Textman;*" and it signifies not that we may differ widely in opinion with this illustrious man; I only give his words as a sample of the license with which he was permitted to press his argument, and which in those times went unpunished:—

"That which he imputes as sacrilege to his country, is the only way left them to purge that abominable sacrilege out of the land, which none but the prelates are guilty of; who for the discharge of one single duty receive and keep that which might be enough to satisfy the labours of many painful ministers better deserving than themselves,—who possess huge benefices for lazy performances, great promotions only for the exercise of a cruel disgospelling jurisdiction,—who engross many pluralities under a non-resident and slubbering despatch of souls,—who let hundreds of parishes famish in one diocess, while they the prelates are mute, and yet enjoy that wealth that would furnish all those dark places with able supply; and yet they eat and yet they live at the rate of earls, and yet hoard up; they who chase away all the faithful shepherds of the flock, and bring in a dearth of spiritual food, robbing thereby the Church of her dearest treasure, and sending herds of souls starvelling to hell, while they feast and riot upon the labours of hireling Curates, consuming and purloining even that which by their foundation is allowed and left to the poor, and the reparation of the Church. These are they who have bound the land with the sin of sacrilege, from which mortal engagement we shall never be free, till we have totally

removed with one labour, as one individual thing, prelaty and sacrilege." "Thus have ye heard, readers" (he continues after some advice to the Sovereign, to check the usurpations of the hierarchy), "how many shifts and wiles the prelates have invented to save their ill-got booty. And if it be true, as in Scripture it is foretold, that pride and covetousness are the sure marks of those false prophets which are to come, then boldly conclude these to be as great seducers as any of the latter times. For between this and the judgment-day do not look for any arch-deceivers, who in spite of reformation will use more craft, or less shame to defend their love of the world and their ambition, than these Prelates have done."*

If Mr. Williams had dared to publish the tithe part of what I have just read; if anything in sentiment or in language approaching to it were to be found in his paper, I should not stand before you with the confidence which I now feel; but what he has published forms a direct contrast to the doctrines contained in this celebrated passage.—Nor is such language confined to the times in which Milton lived, or to a period of convulsion when prelacy was in danger. I will show you that in tranquil, episcopal times, when the Church existed peacefully and securely as by law established, some of its most distinguished members, who have added to its stability as well as its fame, by the authority of their learning and the purity of their lives, the fathers and brightest ornaments of that Church, have used expressions nearly as free as those which I have cited from Milton, and tenfold stronger than anything attributed to the defendant. I will read you a passage from Bishop Burnet, one of those Whig founders of the Constitution, whom the Attorney-General has so lavishly praised. He says,—

"I have lamented during my whole life that I saw

* *Apology for Smectymnus*—published in 1642.

so little true zeal among our clergy; I saw much of it in the clergy of the Church of Rome, though it is both ill-directed and ill-conducted; I saw much zeal, likewise, throughout the foreign churches."

Now comparisons are hateful to a proverb; and it is for making a comparison that the defendant is to-day prosecuted; for his words can have no application to the Church generally, except in the way of comparison. And with whom does the venerable Bishop here compare the clergy? Why, with Antichrist,—with the Church of Rome—casting the balance in her favour—giving the advantage to our ghostly adversary. Next comes he to give the Dissenters the preference over our own clergy:—a still more invidious topic; for it is one of the laws which govern theological controversy almost as regularly as gravitation governs the universe, that the mutual rancour of conflicting sects is inversely as their distance from each other; and with such hatred do they regard those who are separated by the slightest shade of opinion, that your true intolerant priest abhors a pious sectary far more devoutly than a blasphemer or an atheist: yet to the sectary also does the good Bishop give a decided preference:—

"The dissenters have a great deal (that is of zeal) among them, but I must own that the main body of our clergy has always appeared dead and lifeless to me; and instead of animating one another, they seem rather to lay one another asleep."—"I say it with great regret" (adds the Bishop), "I have observed the clergy in all the places through which I have travelled, Papists, Lutherans, Calvinists, and Dissenters; but of them all, our clergy is much the most remiss in their labours in private, and the least severe in their lives. And let me say this freely to you, now I am out of the reach of envy and censure" (he bequeathed his work to be given to the world after his death); "unless a better spirit possess the clergy,

arguments and, which is more, laws and authority will not prove strong enough to preserve the Church."*

I will now show you the opinion of a very learned and virtuous writer, who was much followed in his day, and whose book, at that time, formed one of the manuals by which our youth were taught the philosophy of morals to prepare them for their theological studies, I mean Dr. Hartley:—

"I choose to speak of what falls under the observation of all serious attentive persons in the kingdom. The superior clergy are in general ambitious, and eager in the pursuit of riches—flatterers of the great, and subservient to party interest—negligent of their own particular charges, and also of the inferior clergy. The inferior clergy imitate their superiors, and in general take little more care of their parishes than barely what is necessary to avoid the censure of the law; and the clergy of all ranks are in general either ignorant, or if they do apply, it is rather to profane learning, to philosophical or political matters, than in the study of the Scriptures, of the oriental languages, and the Fathers. I say this is in general the case; that is, far the greater part of the clergy of all ranks in the kingdom are of this kind."

I here must state that the passage I have just read is very far from meeting my approval, any more than it speaks the defendant's sentiments, and especially in its strictures upon the inferior clergy; for certainly it is impossible to praise too highly those pious and useful men, the resident, working parish priests of this country. I speak not of the dignitaries, the pluralists, and sinecurists, but of men neither possessing the higher preferments of the Church, nor placed in that situation of expectancy so dangerous to virtue; the hard working, and I fear too often hard living, resident clergy of this kingdom, who are an ornament to their station, and who richly deserve that which in too many in-

* *History of his Own Times*, ii., 641.

stances is almost all the reward they receive, the gratitude and veneration of the people committed to their care. But I read this passage from Dr. Hartley, not as a precedent followed by the defendant; for he has said nothing approaching to it—not as propounding doctrine authorized by the fact, or which in reasoning he approves—but only for the purpose of showing to what lengths such discussion of ecclesiastical abuses (which, it seems, we are now, for the first time, to hold our peace about), was carried near a century ago, when the freedom of speech, now to be stifled as licentiousness, went not only unpunished, but unquestioned and unblamed.—To take a much later period, I hold in my hand an attack upon the hierarchy by one of their own body, a respectable and beneficed clergyman in the sister County Palatine of Chester, who undertook to defend the Christian religion, itself the basis, I presume I may venture to call it, of the Church, against Thomas Paine. In the course of so pious a work, which he conducted most elaborately, as you may perceive by the size of this volume, he inveighs in almost every page against the abuses of the Establishment, but in language which I am very far from adopting. In one passage is the following energetic, and I may add, somewhat violent invective, which I will read, that you may see how a man, unwearied in the care of souls, and so zealous a Christian that he is in the act of confuting infidels and putting scoffers to silence, may yet, in the very course of defending the Church and its faith, use language, any one word of which, if uttered by the defendant, would make my learned friend shudder at the license of the modern press upon sacred subjects.

"We readily grant, therefore, you see, my countrymen, that the corruptions of Christianity shall be purged and done away; and we are persuaded the wickedness of Christians so called, the lukewarmness of professors, and the reiterated attacks of infidels

upon the Gospel, shall all, under the guidance of infinite wisdom, contribute to accomplish this end."

I have read this sentence to show you the spirit of piety in which the work is composed; now see what follows:—

"The lofty looks of lordly prelates shall be brought low; the supercilious airs of downy doctors and perjured pluralists shall be humbled; the horrible sacrilege of non-residents, who shear the fleece, and leave the flock thus despoiled to the charge of uninterested hirelings that care not for them, shall be avenged on their impious heads. Intemperate priests, avaricious clerks, and buckish parsons, those curses of Christendom, shall be confounded. All secular hierarchies in the Church shall be tumbled into ruin; lukewarm formalists, of every denomination, shall call to the rocks and mountains to hide them from the wrath of the Lamb."

This is the language—these are the lively descriptions—these the warm, and I will not hesitate to say, the exaggerated pictures which those reverend authors present of themselves; these are the testimonies which they bear to the merits of one another; these are opinions coming, not from the enemy without, but from the true, zealous, and even intemperate friend within. And can it be matter of wonder that laymen should sometimes raise their voices tuned to the discords of the sacred choir? And are they to be punished for what secures to clergymen followers, veneration, and—preferment? But I deny that Mr. Williams is of the number of followers; I deny that he has taken a leaf or a line out of such books; I deny that there is any sentiment of this cast, or any expression approaching to those of Dr. Simpson, in the publication before you. But I do contend that if the real friends of the Church, if its own members, can safely indulge in such language, it is ten thousand times more lawful for a layman, like the defendant, to make the

harmless observations which he has published, and in which I defy any man to show me one expression hostile to our ecclesiastical establishment.

[Mr. Brougham then read the following passage from the libel:]

"We know not whether any actual orders were issued to prevent this customary sign of mourning; but the omission plainly indicates the kind of spirit which predominates among our clergy. Yet these men profess to be followers of Jesus Christ, to walk in his footsteps, to teach his precepts, to inculcate his spirit, to promote harmony, charity, and Christian love! Out upon such hypocrisy!"

That you may understand the meaning of this passage, it is necessary for me to set before you the picture my learned friend was pleased to draw of the clergy of the Diocese of Durham, and I shall recall it to your minds almost in his own words. According to him they stand in a peculiarly unfortunate situation; they are, in truth, the most injured of men. They all, it seems, entertained the same generous sentiments with the rest of their countrymen, though they did not express them in the old, free, English manner, by openly condemning the proceedings against the late Queen; and after the course of unexampled injustice against which she victoriously struggled had been followed by the needless infliction of inhuman torture, to undermine a frame whose spirit no open hostility could daunt, and extinguish a life so long embittered by the same foul arts—after that great Princess had ceased to harass her enemies (if I may be allowed thus to speak, applying, as they did, by the perversion of all language, those names to the victim which belong to the tormentor)—after her glorious but unhappy life had closed, and that princely head was at last laid low by death, which, living, all oppression had

only the more illustriously exalted—the venerable the clergy of Durham, I am told now for the first time, though less forward in giving vent to their feelings than the rest of their fellow-citizens—though not so vehement in their indignation at the matchless and unmanly persecution of the Queen,—though not so unbridled in their joy at her immortal triumph, nor so loud in their lamentations over her mournful and untimely end—did, nevertheless, in reality, all the while, deeply sympathize with her suffering, in the bottom of their reverend hearts! When all the resources of the most ingenious cruelty hurried her to a fate without parallel—if not so clamorous as others, they did not feel the least of all the members of the community—their grief was in truth too deep for utterance—sorrow clung round their bosoms, weighed upon their tongues, stifled every sound—and, when all the rest of mankind, of all sects and of all nations, freely gave vent to the feelings of our common nature, THEIR silence, the contrast which THEY displayed to the rest of their species, proceeded from the greater depth of their affliction; they said the less because they felt the more!—Oh! talk of hypocrisy after this! Most consummate of all the hypocrites! After instructing your chosen, official advocate to stand forward with such a defence—such an exposition of your motives—to dare utter the word hypocrisy, and complain of those who charged you with it! This is indeed to insult common sense, and outrage the feelings of the whole human race! If you were hypocrites before, you were downright, frank, honest hypocrites to what you have now made yourselves—and surely, for all you have ever done, or ever been charged with, your worst enemies must be satiated with the humiliation of this day, its just atonement, and ample retribution!

If Mr. Williams had known the hundredth part of this at the time of her Majesty's decease—if he had descried the least twinkling of the light which has

now broke upon us, as to the real motives of their actions—I am sure this cause would never have been tried; because to have made any one of his strictures upon their conduct, would have been not only an act of the blackest injustice,—it would have been perfectly senseless. But can he be blamed for his ignorance, when such pains were taken to keep him in the dark? Can it be wondered at that he was led astray, when he had only so false a guide to their motives as their conduct, unexplained, afforded? When they were so anxious to mislead, by facts and deeds, is his mistake to be so severely criticised? Had he known the real truth, he must have fraternized with them; embraced them cordially; looked up with admiration to their superior sensibility; admitted that he who feels most, by an eternal law of our nature, is least disposed to express his feelings; and lamented that his own zeal was less glowing than theirs; but ignorant and misguided as he was, it is no great marvel that he did not rightly know the real history of their conduct, until about three-quarters of an hour ago, when the truth burst in upon us, that all the while they were generously attached to the cause of weakness and misfortune!

Gentlemen, if the country, as well as Mr. Williams, has been all along so deceived, it must be admitted that it is not from the probabilities of the case. Judging beforehand, no doubt, any one must have expected the Durham clergy, of all men, to feel exactly as they are now, for the first time, ascertained to have felt. They are Christians; outwardly at least, they profess the gospel of charity and peace; they beheld oppression in its foulest shape; malignity and all uncharitableness putting on their most hideous forms; measures pursued to gratify prejudices in a particular quarter, in defiance of the wishes of the people, and the declared opinions of the soundest judges of each party; and all with the certain tendency to plunge the nation in civil discord. If for a moment they had been led away by a dislike of

cruelty and of civil war, to express displeasure at such perilous doings, no man could have charged them with political meddling; and when they beheld truth and innocence triumph over power, they might as Christian ministers, calling to mind the original of their own Church, have indulged without offence in some little appearance of gladness; a calm, placid satisfaction, on so happy an event, would not have been unbecoming their sacred station. When they found that her sufferings were to have no end; that new pains were inflicted in revenge for her escape from destruction, and new tortures devised to exhaust the vital powers of her whom open, lawless violence had failed to subdue—we might have expected some slight manifestation of disapproval from holy men who, professing to inculcate loving-kindness, tender mercy, and good-will to all, offer up their daily prayers for those that are desolate and oppressed. When at last the scene closed, and there was an end of that persecution which death alone could stay; but when not even her unhappy fate could glut the revenge of her enemies; and they who had harassed her to death now exhausted their malice in reviling the memory of their victim; if among them had been found, during her life, some miscreant under the garb of a priest, who, to pay his court to power, had joined in trampling upon the defenceless; even such a one, bare he the form of a man, with a man's heart throbbing in his bosom, might have felt even *his* fawning, sordid, calculating malignity assuaged by the hand of death; even *he* might have left the tomb to close upon the sufferings of the victim. All probability certainly favoured the supposition that the clergy of Durham would not take part against the injured, because the oppressor was powerful; and that the prospect of emolument would not make them witness with dry eyes and hardened hearts the close of a life which they had contributed to embitter and destroy. But I

am compelled to say that their whole conduct has falsified those expectations. They sided openly, strenuously, forwardly, officiously, with power, in the oppression of a woman, whose wrongs this day they for the first time pretend to bewail in their attempt to cozen you out of a verdict, behind which they may skulk from the inquiring eyes of the people. Silent and subdued in their tone as they were on the decease of the unhappy Queen, they could make every bell in all their chimes peal when gain was to be expected by flattering present greatness. Then they could send up addresses, flock to public meetings, and load the press with their libels, and make the pulpit ring with their sycophancy, filling up to the brim the measure of their adulation to the reigning monarch, Head of the Church and dispenser of its patronage.

In this contrast originated the defendant's feelings, and hence the strictures which form the subject of these proceedings. I say the publication refers exclusively to the clergy of this city and its suburbs, and especially to such parts of that clergy as were concerned in the act of disrespect towards her late Majesty, which forms the subject of the alleged libel; but I deny that it has any reference whatever to the rest of the clergy, or evinces any designs hostile either to the stability of the Church, or the general character and conduct of its ministers. My learned friend has said that Mr. Williams had probably been bred a sectary, and retained sectarian prejudices. No argument is necessary to refute this supposition. The passage which has been read to you carries with it the conviction that he is no sectary, and entertains no schismatical views against the Church; for there is a more severe attack upon the sectaries themselves, than upon the clergy of Durham. No man can have the least hesitation in saying, that the sentiments breathed in it are anything but those of a sectary. For myself, I am far from approving the contemptuous terms in which he

has expressed himself of those who dissent from the Establishment; and I think he has not spoken of them in the tone of decent respect that should be observed to so many worthy persons, who, though they differ from the Church, differ from it on the most conscientious grounds. This is the only part of the publication of which I cannot entirely approve, but it is not for this that he is prosecuted. Then, what is the meaning of the obnoxious remarks? Are they directed against the Establishment? Are they meant to shake or degrade it? I say that no man who reads them can entertain a moment's doubt in his mind, that they were occasioned by the conduct of certain individuals; and the use which he makes of that particular conduct, the inference which he draws from it, is not invective against the Establishment, but a regret that it should by such conduct be lowered. He says no more than this:—"These are the men who do the mischief; ignorant and wild fanatics are crowding the tabernacles, whilst the Church is deserted;" and he traces, not with exultation but with sorrow, the cause of the desertion of the Church, and the increase of conventicles. "Here," says he, "I have a fact which accounts for the clergy sinking in the estimation of the community, and I hold up this mirror, not to excite hostility towards the Established Church, nor to bring its ministers into contempt among their flocks, but to teach and to reclaim those particular persons who are the disgrace and danger of the Establishment, instead of being, as they ought, its support and its ornament." He holds up to them that mirror in which they may see their own individual misconduct, and calculate its inevitable effects upon the security and honour of the Establishment which they disgrace. This is no lawyer-like gloss upon the passage—no special pleading construction, or far-fetched refinement of explanation. I give the plain and obvious sense which every man of ordinary understanding must affix to it. If you say that

such a one disgraces his profession, or that he is a scandal to the cloth he wears (a common form of speech, and one never more in men's mouths than within the last fortnight, when things have happened to extort an universal expression of pain, sorrow, and shame), do you mean by such lamentations to undermine the Establishment? In saying that the purity of the cloth is defiled by individual misconduct, it is clear that you cast no imputation on the cloth generally; for an impure person could not contaminate a defiled cloth. Just so has the defendant expressed himself, and in this light I will put his case to you. If he had thought that the whole Establishment was bad; that all its ministers were time-servers, who, like the spaniel, would crouch and lick the hand that fed it, but snarl and bite at one which had nothing to bestow —fawning upon rich and liberal patrons, and slandering all that were too proud or too poor to bribe them; if he had painted the Church as founded upon imposture, reared in time-serving, cemented by sordid interest, and crowned with spite, and insolence, and pride—to have said that the Durham clergy disgraced such a hierarchy, would have been not only gross inconsistency, but stark nonsense. He must rather have said that they were worthy members of a base and grovelling establishment—that the Church was as bad as its ministers—and that it was hard to say whether they more fouled it or were defiled by it. But he has said nothing that can bring into jeopardy or discredit an institution which every one wishes to keep pure, and which has nothing to dread so much as the follies and crimes of its supporters.

Gentlemen, you have to-day a great task committed to your hands. This is not the age—the spirit of the times is not such—as to make it safe, either for the country or for the Government, or for the Church itself, to veil its mysteries in secrecy; to plant in the porch of the temple a prosecutor brandishing his

flaming sword, the process of the law, to prevent the prying eyes of mankind from wandering over the structure. These are times when men *will* inquire, and the day most fatal to the Established Church, the blackest that ever dawned upon its ministers, will be that which consigns this defendant, for these remarks, to the horrors of a gaol, which its false friends, the chosen objects of such lavish favour, have far more richly deserved. I agree with my learned friend, that the Church of England has nothing to dread from external violence. Built upon a rock, and lifting its head towards another world, it aspires to an imperishable existence, and defies any force that may rage from without. But let it beware of the corruption engendered within and beneath its massive walls; and let all its well-wishers—all who, whether for religious or political interests, desire its lasting stability—beware how they give encouragement, by giving shelter to the vermin bred in that corruption, who "*stink and sting*" against the hand that would brush the rottenness away. My learned friend has sympathized with the priesthood, and innocently enough lamented that they possess not the power of defending themselves through the public press. Let him be consoled; they are not so very defenceless—they are not so entirely destitute of the aid of the press as through him they have represented themselves to be. They have largely used that press (I wish I could say "as not abusing it,") and against some persons very near me,—I mean especially against the defendant, whom they have scurrilously and foully libelled through that great vehicle of public instruction, over which, for the first time, among the other novelties of the day, I now hear they have no control. Not that they wound deeply or injure much; but that is no fault of theirs: without hurting, they give trouble and discomfort. The insect brought into life by corruption, and nestled in filth, though its flight be lowly and its sting puny, can swarm, and buzz,

and irritate the skin, and offend the nostril, and altogether give nearly as much annoyance as the wasp, whose nobler nature it aspires to emulate. These reverend slanderers—these pious backbiters—devoid of force to wield the sword, snatch the dagger; and destitute of wit to point or to barb it, and make it rankle in the wound, steep it in venom to make it fester in the scratch. The much venerated personages whose harmless and unprotected state is now deplored, have been the wholesale dealers in calumny, as well as the largest consumers of the base article—the especial promoters of that vile traffic, of late the disgrace of the country—both furnishing a constant demand for the slanders by which the press is polluted, and prostituting themselves to pander for the appetites of others; and now they come to demand protection from retaliation and shelter from just exposure; and to screen themselves, would have you prohibit all scrutiny of the abuses by which they exist, and the mal-practices by which they disgrace their calling. After abusing and well-nigh dismantling, for their own despicable purposes, the great engine of instruction, they would have you annihilate all that they have left of it, to secure their escape. They have the incredible assurance to expect that an English jury will conspire with them in this wicked design. They expect in vain! If all existing institutions and all public functionaries must henceforth be sacred from question among the people; if, at length, the free press of this country, and with it the freedom itself, is to be destroyed—at least let not the heavy blow fall from your hands. Leave it to some profligate tyrant; leave it to a mercenary and effeminate Parliament—a hireling Army, degraded by the lash, and the readier instrument for enslaving its country; leave it to a pampered House of Lords—a venal House of Commons—some vulgar minion, servant-of-all-work to an insolent Court—some unprincipled soldier, unknown, thank God! in our times, combining the talents of a

usurper with the fame of a captain; leave to such desperate hands, and such fit tools, so horrid a work! But you, an English jury, parent of the press, yet supported by it, and doomed to perish the instant its health and strength are gone—lift not you against it an unnatural hand. Prove to us that our rights are safe in your keeping; but maintain, above all things, the stability of our institutions, by well-guarding their corner-stone. Defend the Church from her worst enemies, who, to hide their own misdeeds, would veil her solid foundations in darkness; and proclaim to them by your verdict of acquittal, that henceforward, as heretofore, all the recesses of the sanctuary must be visited by the continual light of day, and by that light all its abuses be explored!

[After the learned Judge had summed up to the Jury, they retired, and remained inclosed for above five hours. They then returned the following special verdict, viz.:—"Guilty of so much of the matter in the first count as charges a libel upon the Clergy residing in and near the City of Durham, and the suburbs thereof, and as to the rest of the first count, and the other counts of the Information, Not Guilty."]

SPEECH

ON

THE ARMY ESTIMATES.

INTRODUCTION.

The subject of the Army Estimates used at all periods of the war to bring on one of the most important, if not the most important, debates of the Session. It was in fact like a State of the Nation, and some of the most interesting, if not the greatest, speeches that have ever been delivered in Parliament, were made upon those occasions. The conduct of the war formed of course the main topic of such debates, although whatever else in the state of public affairs bore upon the existing hostilities, naturally came into the discussion.

In 1816 the war was at an end; but the Army Estimates continued to afford a subject of much animated debate, because they raised the whole question of the Peace Establishment, and were in fact a State of the Nation. The following speech delivered on that occasion, was most imperfectly reported, as in those days generally happened to speeches made in Committees of the Whole House. It has been revised from notes made at the time; but the passage respecting the punishment of Jacobinism is given from memory, and is believed to be much less full than the original was. The speech had a greater success than any other made by Mr. Brougham in Parliament; of which a memorial is preserved in some accounts of the Parliamentary Debates. These mention that it was "loudly cheered from all sides of the House" at its conclusion—a thing of very ordinary occurrence, indeed of daily occurrence now-a-days, but which hardly ever happened in former times.

SPEECH ON

THE ARMY ESTIMATES.

House of Commons—March 11, 1816.

Mr. Brogden,—Although I on a former occasion delivered my opinion generally upon these Estimates, yet I am anxious now to state my sentiments in more detail upon a subject of such great importance, and the rather because of the defiances flung out from the other side to all of us, to go into the examination of it. I stand forward to take up the gauntlet which has thus been thrown down; and I affirm that the more minutely you scrutinize the several items of this bill brought in against the country, the more objectionable you will find them. I object, in the first place, altogether to the large force of Guards which it is intended to keep up; and I even protest, though that is a trifle in comparison, but I do protest against the new-fangled French name of Household Troops, under which they are designated,—a name borrowed from countries where this portion of the national force is allotted exclusively to protect the Prince against a people in whom he cannot trust—is the appointed means given him to maintain his arbitrary power—is the very weapon put into his hands to arm him against the liberties of his country. However appropriate the appellation may be there, it cannot be endured in this nation, where the Sovereign ought never to have any reason for distrusting his subjects, and never can be entrusted with any force except that which the defence of his people re-

quires. But the name is of far less importance than the thing. Has the noble Lord* made out anything like a case for raising the amount of this force to more than double of what it was in 1791? If any such proof had been given, I should not have been found among the opposers of the proposition. But the truth is, that, with all the professed anxiety of the noble Lord and his friends to go through the estimates, item by item; with all their pretended readiness and even desire to court full investigation; with all the bluster of their defiance to us, and the bravado more than once used, that we durst not grapple with the question in detail; they have themselves wholly shrunk from the inquiry, fled from all particulars, and abandoned all attempts at showing, in any one instance, from any one conclusion, with a view to any single circumstance in the present situation of the country, that there is the shadow of a ground for this increase of force. We had the subject debated generally indeed, but at great length, a few days ago, on bringing up the report; and it had been repeatedly before the House on former occasions. We have now the discussion renewed on the motion for going into this Committee. We have been in the Committee for some hours. At this very advanced stage of the debate have we arrived; and, though all the members of the Government have addressed themselves to the question, many of them once and again, yet I defy any one to point out a single fact that has been stated, a single argument urged, a single topic used, to prove the necessity which alone can justify the scale these estimates are framed upon. It has indeed been said that 2,400 of the Guards are destined for France, where I suppose the army of occupation is required in order to demonstrate how tranquil our famous negotiators have left the whole continent —how perfectly successful—how absolutely final—the grand settlement of all Europe is, upon which we so

* Lord Castlereagh.

greatly plume ourselves, and upon which, above all, the political reputation of the noble Lord is built. But suppose I pass over this, and do not stop to ask what reason there can be for these 2,400 men being Guards, and not simply troops of the line—those troops required to maintain our final and conclusive settlement, and enforce the profound tranquillity in which Europe is everywhere enwrapt; suppose I admit for argument sake, and in my haste to get at the main question, that these 2,400 Guards may be necessary—what is to be said of all the rest? There remain no less than 7,600 to account for. What reason has been assigned, what attempt even made, by the noble Lord to assign a reason, why 3,600 more Guards should be wanted than in Mr. Pitt's celebrated establishment of 1792? I desire, however, to have this explained—I demand the ground for this enormous augmentation of what you call your "household force"—I have a right to know why this increase is called for—I call for the reason of it, and the reason I will have. Deduct all you require, or say you require, for France; what has happened since Mr. Pitt's time to justify you in nearly doubling the number of the Guards? That is the question, and it must be answered to Parliament and to the country—answered, not by vague generalities,—by affected anxiety for discussion,—by shallow pretences of desire to have the fullest investigation,—by blustering defiances to *us*—and swaggering taunts that we dare not investigate. We *do* investigate—we do advance to the conflict—we do go into the details—we do enter upon the items one by one; and the first that meets us on the very threshold, and as soon as we have planted a foot upon it, is this doubling of the Guards. Then how do you defend *that?* Where is the ground for it? What is there to excuse it or to explain? Mr. Pitt found 4,000 enough in 1792—then what is there to make 7,600 wanting now? Look at home—Is the country less peaceable now than it was then? Quite the contrary. It was then disturbed; it is now pro-

foundly quiet. Then, although there was no insurrection, nor anything that could be called by such a name, unless by those who sought a pretext for violating the Constitution, and by suspending its powers securing their own, yet still no man could call the state of the country tranquil—universal discontent prevailed, here and there amounting to disaffection, and even breaking out into local disorders; rumours of plots floated everywhere about; whilst meetings were held;—unmeasured language was used;—wild schemes were broached; dangerous associations were formed. Though no man had a right to say that the government was entitled to pursue unconstitutional courses for meeting those evils, every man felt obliged to admit that there was reason for much anxiety—that the aspect of things was lowering—that alarm was a natural feeling—that the duty of the executive was to be vigilant and to be prepared. The fears of men whose loyalty was unquestioned, though their wisdom might be doubted, led them a good deal farther than this. Meetings were encouraged to address the crown, and testify the resolution to support its prerogatives. Bonds were entered into for defending the Constitution, believed to be threatened. Pledges of life and fortune were given to stand by the established order of things, and resist to the death all violence that might be directed against it. Parliament was not alone in countenancing these measures, proceeding from alarm. Both Houses addressed the throne; both joined in asserting the existence of great peril to the Constitution; both declared that the public peace was in danger from the designs of the evil disposed. To read the language of those times, both in public meetings and their addresses, and in Parliamentary debates, and resolutions of the two Houses, any one would have thought that a wide spreading disaffection had shot through the land; that the materials of a vast rebellion were everywhere

collected; and that the moment was tremblingly expected when some spark lighting on the mass, should kindle the whole into a flame, and wrap the country in destruction. Yet in that state of things, and with those testimonies to its menacing aspect, Mr. Pitt, at the very time when he was patronizing the doctrines of the alarmists, encouraging their movements, and doing all he could to increase rather than allay their fears; when he was grounding on the panic that prevailed, those measures out of which his junction with a part of the Whigs arose, whereby he succeeded in splitting that formidable party—yet never dreamt of such a force as we are now told is necessary for preserving the public peace. He proposed no more than 4,000 Guards; and held that amount to be sufficient.

We are challenged to go into particulars; we are defied to grapple with the question in detail. Then I come to particulars and details with the noble Lord The main duty of the Guards is the London service; that is the district to which their force is peculiarly applicable. To keep the peace of this great metropolis is their especial province; and I grant the high importance of such functions. Then I ask when London was ever more quiet than at this moment? When were its numerous inhabitants ever more contented, more obedient to the laws, more disinclined to anything like resistance? At what period of our history was the vast mass of the people by whom we are surrounded, ever more peaceably disposed, more unlikely to engage in anything approaching to tumult, than now? Why, they have even given over going to public meetings; the very trade of the libeller languishes, if it be not at an end, in the general tranquillity and stagnation of these quiet times. All is silence, and indifference, and dulness, and inertness, and assuredly inaction. To the unnatural and costly excitement of war, has succeeded a state of collapse, perhaps from exhaustion, but possibly from contrast alone. The mighty events of the

latter days, when the materials for the history of a country were crowded into the space of a few months, have left the public mind listless and vacant. The stimulus is withdrawn, and change has had its accustomed sedative influence. They who had been gazing till their eyes ached, and they doubted if they were awake, upon the most prodigious signs ever presented in the political and the moral world,—upon empires broken up and formed anew,—dynasties extinguished or springing up,—the chains cast off by not merely a people, but a hemisphere,—and half the globe suddenly covered with free and independent states,—wars waged, battles fought, compared to which the heroes of old had only been engaged in skirmishes and sallies,—treaties made which disposed of whole continents, and span the fate of millions of men,—could hardly fail to find the contemplation of peace, flat, stale, and unprofitable. The eye that had been in vain attempting to follow the swift march of such gigantic events, could not dwell with much interest upon the natural course of affairs, so slow in its motion as to appear at rest. And hence, if ever there was a time of utter inaction, of absolute rest to the public mind, it is the hour now chosen for supposing that there exists some danger which requires defensive preparations and the increase of the garrison with which the listless and motionless mass of the London population may be overawed. Why, my Honourable and Learned friend * has had nobody to prosecute for some years past. It is above two years since he has filed an *ex-officio* Information, unless in the Exchequer against smugglers. Jacobinism, the bugbear of 1792, has for the past six years and more never been even named. I doubt if allusion to it has been made in this House, even in a debate upon a King's speech, since Mr. Pitt's death. And to produce a Jacobin, or a specimen of any other kindred tribe, would, I verily believe, at this time of day, baffle the

* The Attorney-General.

skill and the perseverance of the most industrious and most zealous collector of political curiosities, to be found in the whole kingdom. What, then, is the danger,—what the speculation upon some possible and expected, but non-existing risk,—which makes it necessary at this time to augment the force applied to preserve the peace of the metropolis? But I fear there are far other designs in this measure than merely to preserve a peace which no man living can have the boldness to contend is in any danger of being broken, and no man living can have the weakness really to be apprehensive about. Empty show, vain parade, will account for the array being acceptable in some high quarters; in others, the force may be recommended by its tending to increase the powers of the executive government, and extend the influence of the prerogative. In either light, it is most disgustful, most hateful to the eye of every friend of his country, and every one who loves the Constitution,—all who have any regard for public liberty, and all who reflect on the burthens imposed upon the people.

But if the internal state of the country offers not the shadow of justification for this increase of force, what shall we say of the state of foreign affairs? Above all, what shall we say of the comparison between the face of those affairs now, and its aspect in 1792? That was really a period of external danger. Never was there greater room for anxiety; never had the statesmen, not of England only, but of all Europe, more cause for apprehension and alarm,—more occasion for wakefulness to passing events,—more ground for being prepared at every point. A prodigious revolution had unchained twenty-six millions of men in the heart of Europe, gallant, inventive, enterprising, passionately fond of military glory, blindly following the phantom of national renown. Unchained from the fetters that had for ages bound them to their monarchs, they were speedily found to be alike disentangled from the obli-

gations of peaceful conduct towards their neighbours. But they stopped not here. Confounding the abuses in their political institutions with the benefits, they had swept away every vestige of their former polity; and, disgusted with the rank growth of corruption to which religion had afforded a shelter, they tore up the sacred tree itself, under whose shade France had so long adored and slept. To the fierceness of their warfare against all authority civil and religious at home, was added the fiery zeal of proselytism abroad, and they had rushed into a crusade against all existing governments, and on behalf of all nations throughout Europe, proclaiming themselves the redressers of every grievance, and the allies of each people that chose to rebel against their rulers. The uniform triumph of these principles at home, in each successive struggle for supremacy, had been followed by success almost as signal against the first attempts to overpower them from without,—and all the thrones of the continent shook before the blast which had breathed life and spirit into all the discontented subjects of each of their trembling possessors. This was the state of things in 1792, when Mr. Pitt administered the affairs of a nation, certainly far less exposed either to the force or to the blandishments of the revolutionary people, but still very far from being removed above the danger of either their arts or their arms; and the existence of peril in both kinds, the fear of France menacing the independence of her neighbours, the risk to our domestic tranquillity from a party at home strongly sympathizing with her sentiments, were the topics upon which both he and his adherents were most prone to dwell in all their discourses of state affairs,—Yet in these circumstances, the country thus beset with danger, and the peace thus menaced, both from within and from without, Mr. Pitt was content with half the establishment we are now required to vote! But see only how vast the difference between the present aspect of

affairs and that which I have been feebly attempting to sketch from the records of recent history, no page of which any of us can have forgotten! The ground and cause of all peril is exhausted—the object of all the alarms that beset us in 1792 is no more—France no longer menaces the independence of the world, or troubles its repose. By a memorable reverse, not of fortune, but of divine judgments, meting out punishment to aggression, France overrun, reduced, humbled, has become a subject of care and protection, instead of alarm and dismay. Jacobinism itself, arrested by the Directory, punished by the Consuls, reclaimed by the Emperor, has become attached to the cause of good order, and made to serve it with the zeal, the resources, and the address of a malefactor engaged by the police after the term of his sentence had expired. All is now, universally over the face of the world, wrapt in profound repose. Exhausted with such gigantic exertions as man never made before, either on the same scale or with the like energy, nations and their rulers have all sunk to rest. The general slumber of the times is everywhere unbroken; and if ever a striking contrast was offered to the eye of the observer by the aspect of the world at two different ages, it is that which the present posture of Europe presents to its attitude in Mr. Pitt's time, when, in the midst of wars and rumours of wars, foreign enemies and domestic treason vying together for the mastery, and all pointed against the public peace, he considered a military establishment of half the amount now demanded, to be sufficient for keeping the country quiet, and repelling foreign aggression, as well as subduing domestic revolt.

Driven from the argument of necessity, as the noble Lord seemed to feel assured he should be the moment any one examined the case, he skilfully prepared for his retreat to another position, somewhat less exposed, perhaps, but far enough from being impregnable. You cannot, he said, disband troops who have so distin-

guished themselves in the late glorious campaigns. This topic he urged for keeping up the Guards. But, I ask, which of our troops did not distinguish themselves? What regiment engaged in the wars failed to cover itself with their glories? This argument, if it has any force at all, may be used against disbanding a single regiment, or discharging a single soldier. Nay even those who by the chances of war had no opportunity of displaying their courage, their discipline, and their zeal, would be extremely ill treated, if they were now to be dismissed the service merely because it was their misfortune not to have enjoyed the same opportunity with others in happier circumstances, of sharing in the renown of our victories. It is enough to have been deprived of the laurels which no one doubts they would equally have won had they been called into the field. Surely, surely, they might justly complain if to this disappointment were added the being turned out of the service, which no act of theirs had dishonoured. I am now speaking the language of the noble Lord's argument, and not of my own. He holds it to be unfair towards the Guards that they should be reduced, after eminently meritorious service—he connects merit with the military state—disgrace, or at least slight, with the loss of this station. He holds the soldier to be preferred, rewarded, and distinguished, who is retained in the army—him to be neglected or ill-used, if not stigmatized, who is discharged. His view of the Constitution is, that the capacity of the soldier is more honourable, and more excellent than that of the citizen. According to his view, therefore, the whole army has the same right to complain with the Guards. But his view is not my view; it is not the view of the Constitution; it is not the view which I can ever consent to assume as just, and to inculcate into the army by acting as if it were just. I never will suffer it to be held out as the principle of our free and popular government, that a man is exalted by being made a soldier, and degraded

by being restored to the rank of a citizen. I never will allow it to be said, that in a country blessed by having a civil and not a military government, by enjoying the exalted station of a constitutional monarchy, and not being degraded to that of a military despotism, there is any pre-eminence whatever in the class of citizens which bears arms, over the class which cultivates the arts of peace. When it suits the purpose of some argument in behalf of a soldiery who have exceeded the bounds of the law in attacking some assembled force of the people, how often are we told from that bench of office, from the Crown side of the Bar, nay, from the Bench of justice itself, that by becoming soldiers, men cease not to be citizens, and that this is a glorious peculiarity of our free Constitution? Then what right can the noble Lord have to consider that the retaining men under arms and in the pay of the state, is an exaltation and a distinction which they cease to enjoy if restored to the status of ordinary citizens? I read the Constitution in the very opposite sense to the noble Lord's gloss. I have not sojourned in congresses with the military representatives of military powers,—I have not frequented the courts any more than I have followed the camps of these potentates,—I have not lived in the company of crowned soldiers, all whose ideas are fashioned upon the rules of the drill and the articles of the fifteen manœuvres,—all whose estimates of a country's value are framed on the number of troops it will raise—and who can no more sever the idea of a subject from that of a soldier, than if men were born into this world in complete armour, as Minerva started from Jupiter's head. My ideas are more humble and more civic, and the only language I know, or can speak, or can understand in this House, is the mother tongue of the old English Constitution. I will speak none other—I will suffer none other to be spoken in my presence. Addressing the soldier in that language—which alone above all other men in the country he

ought to know,—to which alone it peculiarly behoves us that he, the armed man, should be accustomed,—I tell him, "You *have* distinguished yourself,—all that the noble Lord says of you is true—nay, under the truth—you have crowned yourself with the glories of the war. But chiefly you, the Guards, you have outshone all others, and won for yourselves a deathless fame. Now, then, advance and receive your reward. Partake of the benefits you have secured for your grateful country. None are better than you entitled to share in the blessings, the inestimable blessings of peace—than you whose valour has conquered it for us. Go back then to the rank of citizens, which, for a season, you quitted at the call of your country. Exalt her glory in peace whom you served in war; and enjoy the rich recompense of all your toils in the tranquil retreat from dangers which her gratitude bestows upon you."—I know this to be the language of the Constitution, and time was when none other could be spoken, or would have been understood in this House. I still hope that no one will dare use any other in the country; and least of all can any other be endured as addressed to the soldiery in arms, treating them as if they were the hired partizans of the Prince, a caste set apart for his service, and distinguished from all the rest of their countrymen; not a class of the people devoting themselves for a season to carry arms in defence of the nation, and when their services are wanted no more, retiring naturally to mix with and be lost in the mass of their fellow-citizens.

But it has been said that there is injustice and ingratitude in the country turning adrift her defenders as soon as the war is ended, and we are tauntingly asked, "Is this the return you make to the men who have fought your battles? When the peace comes which they have conquered, do you wish to starve them or send them off to sweep the streets?" I wish no such thing; I do not desire that they should go unrequited

for their services. But I cannot allow that the only, or the best, or even a lawful mode of recompensing them, is to keep on foot during peace the army which they compose, still less that it is any hardship whatever for a soldier to return into the rank of citizens when the necessity is at end, which alone justified his leaving those ranks. Nor can I believe that it is a rational way of showing our gratitude towards the army, whose only valuable service has been gaining us an honourable peace, to maintain an establishment for their behoof, which must deprive the peace of all its value, and neutralize the very benefits which they have conferred upon us.

See, too, the gross inconsistency of this argument with your whole conduct. How do you treat the common sailors who compose our invincible navy? All are at once dismissed. The Victory, which carried Nelson's flag to his invariable and undying triumphs, is actually laid up in ordinary, and her crew disbanded to seek a precarious subsistence where some hard fortune may drive them. Who will have the front to contend that the followers of Nelson are less the glory and the saviours of their country than the soldiers of the Guards? Yet who is there candid enough to say one word in their behalf, when we hear so much of the injustice of disbanding our army after its victories? Who has ever complained of that being done to the seamen, which is said to be impossible in the soldier's case? But where is the difference? Simply this: That the maintenance of the navy in time of peace, never can be dangerous to the liberties of the country, like the keeping up a standing army; and that a naval force gives no gratification to the miserable, paltry love of show which rages in some quarters, and is to be consulted in all the arrangements of our affairs, to the exclusion of every higher and worthier consideration.

After the great constitutional question to which I have been directing your attention, you will hardly

bear with me while I examine these estimates in any detail. This, however, I must say, that nothing can be more scandalous than the extravagance of maintaining the establishment of the Guards at the expense of troops of the line, which cost the country so much less. Compare the charge of 2,000 Guards with an equal number of the line, and you will find the difference of the two amounts to above £10,000 a-year. It is true that this sum is not very large, and, compared with our whole expenditure, it is as nothing. But in a state burthened like ours, there can be no such thing as a small saving; the people had far rather see millions spent upon necessary objects, than thousands squandered unnecessarily, and upon matters of mere superfluity; nor can anything be more insulting to their feelings, and less bearable by them, than to see us here underrating the importance even of the most inconsiderable sum that can be added to, or taken from the intolerable burthens under which they labour.

As for the pretext set up to-night, that the question is concluded by the vote of last Friday, nothing can be more ridiculous. This House can never be so bound. If it could, then may it any hour be made the victim of surprise, and the utmost encouragement is held out to tricks and manœuvres. If you voted too many men before, you can now make that vote harmless and inoperative, by withholding the supplies necessary for keeping those men on foot. As well may it be contended that the House is precluded from throwing out a bill on the third reading, because it affirmed the principle by its vote on the second, and sanctioned the details, by receiving the committee's report.

The Estimate before you is £385,000, for the support of 8,100 Guards. Adopt my honourable friend's amendment,* and you reduce them to about 4,000, which is still somewhat above their number in the last peace.

Sir, I have done. I have discharged my duty to the

* Mr. Calcraft.

country—I have accepted the challenge of the Ministers to discuss the question—I have met them fairly, and grappled with the body of their argument. I may very possibly have failed to convince the House that this establishment is enormous and unjustifiable, whether we regard the burthened condition of the country, or the tranquil state of its affairs at home, or the universal repose in which the world is lulled, or the experience of former times, or the mischievous tendency of large standing armies in a constitutional point of view, or the dangerous nature of the arguments urged in their support upon the present occasion. All this I feel very deeply; and I am also very sensible how likely it is that on taking another view you should come to an opposite determination. Be it so—I have done my duty—I have entered my protest. It cannot be laid to my charge that a force is to be maintained in profound and general peace, twice as great as was formerly deemed sufficient when all Europe was involved in domestic troubles, and war raged in some parts and was about to spread over the whole. It is not my fault that peace will have returned without its accustomed blessings—that our burthens are to remain undiminished—that our liberties are to be menaced by a standing army, without the pretence of necessity in any quarter to justify its continuance. The blame is not mine that a brilliant and costly army of household troops, of unprecedented numbers, is allowed to the Crown, without the shadow of use, unless it be to pamper a vicious appetite for military show, to gratify a passion for parade, childish and contemptible, unless, indeed, that nothing can be an object of contempt which is at once dangerous to the Constitution of the country, and burthensome to the resources of the people. I shall further record my resistance to this system by my vote; and never did I give my voice to any proposition with more hearty satisfaction than I now do to the amendment of my honourable friend.

HOLY ALLIANCE.

SPEECH

UPON

THE WAR WITH SPAIN.

INTRODUCTION.

Soon after the settlement of affairs subsequent to the battle of Waterloo, the three sovereigns who had borne the principal part in the military operations by which the war was closed, entered into certain engagements with each other by a convention, the object of which they asserted to be the preservation of the peace just concluded. They named this the "*Christian Treaty*," and their alliance the "*Christian Alliance;*" but it soon came to be called by the world, as well as by the parties themselves, the "*Holy Alliance.*" It bore date at Paris, the 26th September, 1815; and is certainly a document of a very singular description, and of a most suspicious character. The contracting parties, the two Emperors and the Prussian King, begin by acknowledging their obligations to Heaven for their late deliverance, and stating that the inference drawn by them from thence, is the necessity of rulers forming their conduct upon the "sublime truths" which "the holy religion of our Saviour teaches;" and they further declare, that they have no other object in this treaty than to proclaim before the world their resolution to take for their guide the precepts of the Christian religion—namely, justice, charity, and peace. The articles of the treaty are three. In the first, the parties bind themselves to remain united as brethren in the "bonds of true and indissoluble fraternity," "to lend each other aid and assistance as fellow-countrymen, on all occasions and in all places, and conducting themselves

towards their armies and subjects as fathers of families, to lead them in the same spirit of fraternity to protect religion, peace, and justice."—The second article declares the only principle in force between the three Governments to be, "doing each other reciprocal service and testifying mutual good-will;" and it avows that they all form branches of "one family, one Christian nation, having in reality no other sovereign than him in whom alone are found all the treasures of love, science, and infinite wisdom; that is to say, God our Divine Saviour, the word of the Most High, the word of life." The article concludes with earnestly recommending to their people the "strengthening themselves more and more every day in the principles and the exercise of the duties which the Divine Saviour has taught mankind."—The third article announces, that whatever Powers shall "solemnly avow the same sacred principles, and acknowledge the importance of the above truths being suffered to exercise full influence over the destinies of mankind, will be received with equal ardour and affection into this Holy Alliance." Contrary to all the accustomed forms of diplomacy, the treaty was only signed by the three monarchs themselves, without any mention whatever being made of ambassadors, ministers, or other representatives, as engaged in the negotiation.

When this extraordinary transaction came to be known, it naturally excited great attention, and gave birth to many suspicions. That these powerful monarchs should make a treaty for no other purpose than to avow their religious fervour, and preach the Christian doctrine for the benefit of their subjects, and should form an alliance, having no other object than to profess together those doctrines, and in concert to practise them, seemed altogether unaccountable. This, of itself, would have been sufficient to awaken grave suspicions that much more was meant by the confederacy than met the eye. But to this was to be added the previous

relations of alliance, offensive and defensive, which had subsisted between the same princes, and far from ending in sermons upon the duties of a Christian man, had brought into the field of battle above half a million of Christian men in full armour. There were indeed some parts of this curious document itself, which pointed pretty plainly at operations of the flesh rather than the spirit; and gave indications sufficiently manifest of the designs in which it originated, or at any rate of the proceedings to which it might lead. The first and fundamental article bound the parties to lead their armies in the spirit of fraternity, for the protection of religion, peace, and justice. Now, under a description so very vague and large as this, almost any objects might be comprehended; and men did not fail to remark, that there had hardly ever been a war of the most unjust aggression begun without lavish professions that its only design was to see justice done, and obtain a secure and honourable peace.

Against these very natural suspicions, nothing could be set except the pious language of the treaty, which of course went for little, and the peculiar character of the Emperor Alexander, its chief promoter, which went for not much more. This Prince was said to have lately become a convert to some sect of religious enthusiasts, a distinguished professor among whom was a certain Madame Krudener, one of those mystical devotees, half evangelical, half metaphysical, with which Germany abounds. The Alliance was represented as the result of this holy female's inspirations, and the first fruits of her influence over the Autocratic neophyte. The phrase was, and Lord Castlereagh, when questioned in Parliament, gave the matter this turn, that the whole was a mere innocent act, an amiable fancy of his Imperial Majesty, in which England and France were only prevented from joining, by the forms of their diplomacy excluding direct negotiation and treating by the Sovereign; but which, as it could not possibly lead to any

practical consequences, was not worth objecting to, or commenting upon.

The Emperor Alexander, upon whose individual nature, habits, or caprices, this explanation and defence turned, was, after the fall of Napoleon, the most distinguished prince in Europe, whether we regard the magnitude of the affairs in which he had been engaged, the extraordinary fortune that had attended his arts rather than his arms, or the vast empire over which he despotically ruled. But although by no means an ordinary man, and still less an ordinary monarch, he owed his influence and his note very much more to the accidental circumstances of his position, and to the errors committed by Napoleon, first in Spain, then in the North, than either to any very admirable personal qualities received from nature, or to any considerable accomplishments derived from education. His preceptor, Colonel La Harpe, though a very worthy and intelligent man, was distinguished neither by profound genius, nor great scientific acquirements; and from his instructions the Imperial pupil could not be said to have profited greatly. His knowledge was exceedingly superficial; and never relying on his own resources, he adopted the Royal plan of previously ascertaining what were the pursuits of those he would converse with, and picking up at second-hand a few common-places with which to regale his guests, who, expecting little from an Emperor, and interdicted from anything like discussion by the etiquette of a court, were sure to leave the presence deeply impressed with his information and his powers. If he was superficial in general knowledge, he could not be said to have any great capacity either for civil or military affairs. To tell that he constantly pursued the Russian policy, of invariably gaining some accession of territory, be it ever so little, in whatever war he might be engaged, and that his treaties of peace never formed any exception to this Muscovite rule, is only to say that he followed

in the train of all his predecessors from Peter the First downwards. Placed in circumstances of unprecedented peril, no passage of his life can be referred to in proof of any resources being displayed by him, which the most ordinary of princes would not have shown himself possessed of. Stimulated by the exigence of so many great emergencies, he never rose with the occasion, and unlike any one with pretensions to eminence, was generally found most wanting when the crisis was the most trying. At his accession, he found the armed neutrality of the North discomfited by the battle of Copenhagen; and he at once yielded all the points for which his father, a far superior though an eccentric man, had contended, unawed by any difficulties, and unsubdued by any reverses. Joining the third coalition against France, but possessing no general who like Suwarrow could lead his armies to victory, he sustained one of the most memorable overthrows recorded in history, and was compelled to purchase peace, and escape invasion, by abandoning the alliance into which he had voluntarily entered. Stricken to the heart with the fear of France, and hardly knowing whether to seek for safety in resistance or in submission to her dictation, he again had recourse to war, for which he had no kind of genius. Again defeated in one of the greatest and most decisive battles of modern times, he formed the closest alliance with his victorious enemy, who soon found it easy to mould which way soever he pleased a person quite as vain and as shallow as he was nimble and plausible. At length came the great crisis both of Alexander's fate and of the world's. Napoleon, obstinately bent on subduing the Peninsula, while he continued to make war in the North, was worsted repeatedly by the English arms; pushed his forces in unexampled numbers through Germany, to attack the Russian empire; and penetrated to its ancient capital, after many bloody engagements, and an immense loss sustained on either side. The savage determination of Rostopschin pre-

vented, by burning the city, a renewal of the scenes five years before enacted on the Niemen. Alexander was prevented from making peace and tendering submission, by the enterprising spirit of that barbarous chief, and the prompt decision and resolute determination of Sir Robert Wilson. The inclemency of an unusually early and severe northern winter did all the rest, and Europe was saved by the physical powers brought happily to bear upon and to destroy the greatest army ever sent into the field. No trait of military genius—no passage of civil capacity—no instance of shining public virtue—can be cited as displayed by him during a struggle so singularly calculated to draw forth men's powers, to fire them with generous ardour, to nerve their arms with new vigour, to kindle latent genius until it blazed out to enlighten and to save a world.

When the struggle was over, and his empire restored to peace, he showed no magnanimous gratitude to the brave people who had generously made such unparalleled sacrifices, and had cheerfully suffered such cruel miseries for the defence of his crown. He joined his royal associates in breaking all the promises that had been made during the perils of the war; and in imitating the very worst part of his conduct whom, with the words of justice, peace, and right on their lips, they had, with the aid of their gallant subjects, overthrown. His shallow vanity was displayed during the visit of the Princes to England. When, among other party leaders, Lord Grenville was presented to him, he thought it was hitting on an excellent improvement in the conduct of party concerns, to recommend that, instead of urging objections in Parliament to the Ministerial measures, the Opposition should seek private audiences of their adversaries from time to time, and confidentially offer their objections, or propose their amendments. Nor was this vain and superficial Prince made at all sensible of the folly he had committed, by the somewhat per-

emptory negative which a few characteristic words and gestures of the veteran party man suddenly put upon his shallow and ignorant scheme. Although the Emperor repeatedly testified a somewhat marked disrespect for our Regent, he yet suffered himself to be overpowered by the Carlton House emissaries, and avoided the ordinary civility of visiting the Princess of Wales, then, as always, the object of her royal husband's unceasing persecutions. The English people drew from thence a conclusion highly unfavourable to the independence of his character, as well as to the kindliness of his nature; and he made quite as little impression upon them as his more unpretending, though certainly not much less distinguished brother of Prussia.

His reputation for honesty stood extremely low, even among persons of his pre-eminent station. Napoleon, who knew his imperial brother thoroughly, applied to him the uncourtly, and indeed rather unceremonious description of "*faux, fin, et fourbe, comme un Grec du bas empire.*" It would be highly unjust to tax him with any participation in his father's murder; nor would the certainty, if it existed, of his privity to it, be any stain upon his character, unless we were also assured, contrary to all probability, that he had any power whatever to prevent it. But he was certainly bound in common decency to discountenance, if he dared not punish, the men whose daggers had opened for him the way to a throne; and more unthinking folly, greater indecorum, worse judgment in every way, can hardly be imagined, than his referring to the blood shed in palaces, when he issued, with his confederates, the Manifesto against Spain, alluded to in the following speech. His course was marked by no displays either of princely or of private virtues,—of munificence, of magnanimity, of self-denial, of plain-dealing. Nor did the extraordinary pretences to religion, which marked his latter years, succeed in deceiving any one, but such as were, either from the adulation of the Court, or the enthusi-

asm of the Conventicle, willing and even anxious to be deluded. Among such dupes, he passed for somewhat more pious than his royal compeers; but few were, even in that class, found so charitable as to believe in his honesty, or to suppose that under the professions of the Christian treaty, there lurked no hidden designs of a purely secular and strictly royal description.*

The Holy Allies issued from Tropau one manifesto, from Leybach another, against the free constitution which had just been established at Naples by a military force co-operating with a movement of the people. On the eve of the Parliament meeting (19th Jan., 1821), Lord Castlereagh delivered a note to the Holy Allies, expressing in meagre and measured terms a feeble dissent from the principle of interference; but adding a peremptory disapproval of the means by which the Neapolitan revolution had been effected, and indicating very plainly that England would allow whatever they chose to do for the purpose of putting down the new government and restoring the old. It is certain that this kind of Revolution is of all others the very worst, and to liberty the most unpropitious. It is also probable that the people of Naples knew not what they sought; nay, when they proclaimed the Spanish Constitution, it is said there was no copy of it to be found in the whole city. Nevertheless the same kind of military movement had produced the destruction of the same constitution in Spain, and restored the power and prerogative of Ferdinand; and no exception had been ever taken to it, in that instance, either by the Holy Allies or by England. There could therefore be no doubt whatever, that this mode of effecting changes in a government was only displeasing to those parties when the change happened to be of a popular kind, and that a military revolution to restore or to found a despotic

* The selection of such eminent diplomatic talents as adorned and distinguished the Lievens and the Pozzos, appears to have been his greatest praise.

government was a thing perfectly to their liking. These faintly dissented from as to the principle, and not even faintly opposed as to the particular instance, the three sovereigns deputed one of their number to march; and the Austrian troops ended, in a few days, all that the Neapolitan army had done in as many hours.

But late in 1822, Spain, or rather Madrid, again became the scene of a revolutionary movement; and the people obtained once more a free form of government. Again the Holy Allies were at work; and on this occasion, their manifestoes were directed to arm France with the authority of the League. First an army was assembled on the Spanish frontier, under the stale pretext of some infectious disorder requiring a sanatory cordon; the same pretext on which the predecessors of those Holy Allies had in former times surrounded unhappy Poland with their armed hordes —the only difference being, that an epidemic was in that instance said to be raging among the cattle, and now it was supposed to be the plague among men. A great change had, however, now taken place in the British department of Foreign affairs. Lord Castlereagh's sudden death had changed Mr. Canning's Indian destination, and placed him both at the head of the Foreign Office, and in the lead of the House of Commons. His views were widely different from those of his predecessor. He was justly jealous of the whole principles and policy of the Holy Alliance; he was disgusted with the courtly language of the crafty and cruel despots who, under the mask of religious zeal, were enslaving Europe; he was indignant at the subservient part in those designs which England had been playing; and he was resolved that this obsequiousness should no longer disgrace his country. In America, he was determined that the colonies of Spain should be recognized as clothed with the independence which they had purchased by their valour; in Europe, he was fixed in the design of unchaining England from

the chariot wheels of the Holy Allies. When Parliament met, the speech from the throne contained some indications of these principles; and more were given by the ministerial speakers who began the debate on the address. The following speech was delivered on that occasion by Mr. Brougham, who had, almost unsupported, seven years before, denounced the Holy Alliance, and moved for the production of the Christian Treaty of September, 1815, which Lord Castlereagh had refused, on the ground that it contained no practical matter, but was a mere resolution in favour of general peace.

SPEECHES UPON

THE WAR WITH SPAIN.

House of Commons—February 4, 1823.

I rise in consequence of the appeal made to every member of the House by the gallant officer * who has just sat down, to declare my sentiments: I answer that appeal, which does credit to the honour, to the English feeling of that gallant officer; and I join with him, and with every man who deserves the name of Briton, in unqualified abhorrence and detestation of the audacious interference to which he has alluded; or if that execration is at all qualified, it can only be by contempt and disgust at the canting hypocrisy of the language in which the loathsome principles of the tyrants are promulgated to the world. I have risen to make this declaration, called upon as I am in common with every member; but I should ill discharge my duty, if I did not mark my sense of the candour of the two Honourable gentlemen who have moved and seconded the address, and express my satisfaction at what, in the House, however divided upon other points, will be almost, and certainly in the country will be quite unanimously felt to be, the sound and liberal view which they have taken of this great affair. Indeed, I know not, circumstanced as they were, that they could go farther; or even that his Majesty's Ministers, in the present state of this

* Sir J. Yorke.

very delicate question, ought to have gone beyond the communication of to-day. That communication, coupled with the commentary of the Honourable mover, will be the tidings of joy, and the signal for exultation to England—it will spread gladness and exultation over Spain—will be a source of comfort to all other free states—and will bring confusion and dismay to the allies, who, with a pretended respect, but a real mockery of religion and morality, make war upon liberty in the abstract; endeavour to crush national independence wherever it is to be found; and are now preparing, with their armed hordes, to carry into execution their frightful projects. That Spain will take comfort from the principles avowed in the House this evening, I am certain; and I am not less clear, that the handful of men at present surrounding the throne of our nearest and most interesting neighbour (who, by the way, has somehow or other been induced to swerve from the prudent councils which had till of late guided his course), will feel astonished and dismayed with the proceedings of this day, in proportion as others are encouraged. Cheering, however, as is the prevalence of such sentiments; highly as they raise the character of the nation, and much as may be augured from their effects,—still I think no man can deny, that the country is at present approaching to a crisis such as has not occurred perhaps for above a century, certainly not since the French revolution. Whether we view the internal condition of the kingdom, and the severe distress which presses upon that most important and most useful branch of the community, the farmers; or cast our eyes upon our foreign relations,—our circumstances must appear, to the mind of every thinking man, critical and alarming. They may, it is true, soon wear a better aspect, and we may escape the calamities of war; but he must be a bold, possibly a rash man, certainly not a very thoughtful one, who can take upon him to foretell that so happy a fortune shall be ours.

It is the deep consideration of these things which induces me to come forward and make a declaration of my principles; and to state that, with a strict adherence to the most rigid economy in every department, the reduction of establishments which I am at all times, if not the first, at least among the foremost, to support, and which is so necessary, in the ordinary circumstances of the country, must now be recommended, with a certain modification, in order to adapt our policy to the present emergency. I am guilty of no inconsistency whatever, in thus qualifying the doctrine of unsparing retrenchment; indeed, the greater the chance of some extraordinary demand upon our resources, from the aspect of affairs abroad, the more imperious is the necessity of sparing every article of expense not absolutely requisite. Economy to its utmost extent, I still recommend as politic, and urge as due to the people of right; and every expense is now to be regarded as more inexcusable than ever, both because the country is suffering more severely, and because it may become necessary soon to increase some parts of our establishment. I say I am certainly not prepared to propose or to suffer, as far as my voice goes, any the least reduction of our Naval force, to the extent even of a single ship or seaman; on the contrary, I fear the time may not be distant when its increase will be required. Any such augmentation of the army, I cannot conceive to be justifiable in almost any circumstances; for happen what may, a war on our part, carried on with the wasteful and scandalous profusion of the last, and upon the same vast scale, or anything like it, is wholly out of the question.

[Mr. Brougham entered at some length into the internal state of the country—the indications of distress at the various meetings—the inconsistency of the violent attacks made upon the Norfolk petition by those who had passed the Gold Coin Bill of 1811,

which enacted the parts of the Norfolk plan most liable to objection—the inadequacy of any relief to be obtained from repeal of taxes that only affected small districts—the absolute necessity of repealing a large amount of the taxes pressing generally on all classes—and, for this purpose, he urged the necessity of a saving wherever it could be effected with safety; and, at any rate, of giving up the Sinking Fund. He then proceeded:]

I think, then, that if war were once commenced, we should soon be compelled to take some part in it, one way or other, and that for such an emergency, every shilling which can be saved by the most rigid economy, should be reserved. I think our intervention in some shape will become unavoidable. We are bound, for instance, to assist one party, our old ally Portugal, if she should be attacked; and it is not likely that she can remain neuter, if the present hateful conspiracy against Spain shall end in open hostility. It is in this view of the question that I differ from the gallant officer* who last spoke; and I am glad that I could not collect from the Honourable mover or seconder, the ominous words "*strict neutrality*," as applied to this country, in the threatened contest. A state of *declared* neutrality on our part would be nothing less than a practical admission of those principles which we all loudly condemn, and a license to the commission of all the atrocities which we are unanimous in deprecating. I will say, therefore, that it is the duty of his Majesty's Ministers (with whom I should rejoice in co-operating on the occasion—and so, I am certain, would every one who now hears me, waiving for a season all differences of opinion on lesser matters), to adopt and to announce the resolution, that when certain things shall take place on the continent, they will be ready to assist the Spaniards—a measure necessary to avert evils, which even those the least

* Sir J. Yorke.

prone to war (of which I avow myself one) must admit to be inevitable, should a wavering or pusillanimous course be pursued. Our assistance will be necessary to resist the wicked enforcement of principles contrary to the Law of Nations, and repugnant to every idea of National Independence.

To judge of the principles now shamelessly promulgated, let any man read patiently, if he can, the declarations in the Notes of Russia, Prussia, and Austria; and, with all due respect to those high authorities, I will venture to say, that to produce anything more preposterous, more absurd, more extravagant, better calculated to excite a mingled feeling of disgust and derision, would baffle any chancery or state-paper office in Europe. I shall not drag the House through the whole nauseous details; I will only select a few passages, by way of sample, from those notable productions of Legitimate genius.

In the communication from the Minister of his Prussian Majesty, the Constitution of 1812, restored in 1820, and now established, is described as a system which—"confounding all elements, and all power, and assuming only the single principle of a permanent and legal opposition against the Government, necessarily destroys that central and tutelary authority which constitutes the essence of the monarchical system." Thus far the King of Prussia, in terms which, to say the least, afforded some proof of the writer's knowledge of the absolute monarchy system, and of the contrast which, in his opinion, it exhibited to the present Government of Spain. The Emperor of Russia, in terms not less strong, calls the Constitutional Government of the Cortes, "that which the public reason of Europe, *enlightened by the experience of all ages*, stamps with its disapprobation;" and complains of its wanting the "conservative principle of social order." Where, in the conservative character of Keeper of the Peace of Europe, does his Imperial Majesty discover

that the Constitution of Spain had been stamped with the disapprobation of the public reason of Europe? Let the House observe, that the "public reason of Europe, enlightened by the experience of all ages," happens to be that of his Imperial Majesty himself for the last ten years exactly, and no more; for, notwithstanding that he had the "experience of all ages" before his eyes, he did, in the year 1812, enter into a treaty with Spain, with the same Cortes, under the same Constitution, not one iota of which had been changed up to that very hour. In that treaty, his Majesty the Emperor of all the Russias, speaking of the then government, did use the very word by which he and his allies would themselves be designated—the word, by the abuse of which they are known—he did call the Spanish Government of the Cortes "a *legitimate* Government," that very Government—that very Constitution—of which the Spaniards have not changed one word; and God forbid they should change even a letter of it, while they have the bayonet of the foreign soldier at their breast! I hope, if it has faults—and some faults it may have—that when the hour of undisturbed tranquillity arrives, the Spaniards themselves will correct them. If they will listen to the ardent wish of their best friends—of those who have marked their progress, and gloried in the strides they have made towards freedom and happiness—of those who would go to the world's end to serve them in their illustrious struggle—of those above all, who would not have them yield an hair's breadth to force,—my counsel would be to disarm the reasonable objections of their friends, but not to give up anything to the menaces of their enemies. I shall not go more into detail at the present moment, for ample opportunities will occur of discussing this subject; but I will ask, in the name of common sense, can anything be more absurd, more inconsistent, than that Spain should now be repudiated

as illegitimate by those, some of whom have, in treaties with her, described her Government in its present shape, by the very term, "legitimate Government?" In the treaty of Friendship and Alliance, concluded in 1812, between the Emperor of all the Russias and the Spanish Cortes, Ferdinand being then a close prisoner in France, his Imperial Majesty, by the third article, acknowledges in express terms, the Cortes, "and the CONSTITUTION sanctioned and decreed by it." This article I cite from the Collection of Treaties by Martens, a well known Germanic, and therefore a laborious and accurate, compiler.

But not only is the conduct of the allies towards Spain inconsistent with the treaties of some among them with Spain,—I will show that their principle of interference, in any manner of way, is wholly at variance with treaties recently made amongst themselves. I will prove, that one of the fundamental principles of a late treaty is decidedly opposed to any discussion whatever amongst them, respecting the internal situation of that country. By the fourth article of the treaty of Aix-la-Chapelle, November, 1818, it is laid down that a special congress may be held, from time to time, on the affairs of Europe. Using the words, and borrowing the hypocritical cant of their predecessors, the same three powers who basely partitioned Poland—who, while they despoiled a helpless nation of its independence, kept preaching about the quiet of Europe, the integrity of its states, and the morality and happiness of their people—talking daily about their desire of calm repose, the atmosphere I well know, in which despotism loves to breathe, but which an ancient writer eloquently painted, when he said, that tyrants mistake for peace the stillness of desolation—following the vile cant of their ancestors,—the allies declared, at Aix-la-Chapelle, that their object was to secure the tranquillity, the peace, which I, giving them credit for sincerity, read the *desolation*, of Europe,

and that their fundamental principle should be, never to depart from a strict adherence to the law of nations. "Faithful to these principles" (continued this half-sermon, half-romance, and half-state-paper), "they will only study the happiness of their people, the progress of the peaceful arts, and attend carefully to the interests of morality and religion, of late years unhappily too much neglected"—here, again, following the example of the Autocratrix Catherine—the spoiler of Poland,—who, having wasted and pillaged it, province after province, poured in hordes of her barbarians, which hewed their way to the capital through myriads of Poles, and there, for one whole day, from the rising of the sun, to the going down thereof, butchered its unoffending inhabitants, unarmed men, and women, and infants; and not content with this work of undistinguishing slaughter, after the pause of the night had given time for cooling, rose on the morrow, and renewed the carnage, and continued it throughout that endless day; and after this, a *Te Deum* was sung, to return thanks for her success over the *enemies*, that is, the natives of Poland. That mild and gentle Sovereign, in the midst of these most horrible outrages upon every feeling of human nature, issued a proclamation, in which she assured the Poles (I mean to give her very words), that she felt towards them, "the solicitude of a tender mother, whose heart is only filled with sentiments of kindness for all her children." Who can, or who dares doubt that she was all she described herself? and who can, after the experience of the last year, dispute the legitimate descent of the allied powers, and the purity of their intentions towards Spain? But along with this declaration of the object of future congresses, came the article which I should like to see some German statist, —some man versed in the manufacture of state-papers —compare with and reconcile (if it only may be done within a moderate compass) to the notes fashioned at Verona, not unlikely by the very hands which produced

the treaty of Aix-la-Chapelle. The article is this:—"Special congresses concerning the affairs of states not parties to this alliance, shall not take place, except" (and here I should like to know how Spain, which was no party to the alliance, has brought herself within the exception)—"*except in consequence of a formal invitation from such States;*" "and their ambassadors shall assist at such congresses." How will any German commentator reconcile these contradictions? Here the interference in the internal affairs of Spain is not only not "by special invitation" from, but is in downright opposition to, the will of Spain. Thus stands the conduct of those holy allies diametrically opposed to their own professions and engagements; and by such means is the attempt now made to crush the independence of a brave people.

But it is not in the case of Spain alone that the consideration of these papers is important—they furnish grounds of rational fear to all independent governments; for I should be glad to learn what case it is (upon the doctrines now advanced) to which this principle of interference may not be extended?—or what constitution, or what act of state it is on which the authority to comment, criticise, and dictate, may not be assumed? The House is not aware of the latitude to which the interference of those armed legislators may be, nay, actually is, extended. The revolt of the colonies is distinctly stated as one ground of interposition! The allies kindly offer their "intervention" to restore this great branch of "the strength of Spain." There is no end of the occasions for interfering which they take. One is rather alarming—the accident of a sovereign having weak or bad ministers. Russia, forsooth, was anxious to see Ferdinand, surrounded with "the most enlightened—most faithful of his subjects"—men "of tried integrity and superior talents"—men, in a word, who should be every way worthy of himself. So that, according to these wise men of Verona (and

this is a consideration which should be looked to in some other countries, as well as Spain), the existence of an inefficient or unprincipled administration, would be of itself a just ground of interference. The principle does not stop here. "Ruinous loans" form another ground, and "contributions unceasingly renewed;" "taxes, which, for year after year, exhausted the public treasures and the fortunes of individuals"—these are instances, in which the principle of interference may apply to other powers beside Spain; and I have no doubt that when the same doctrines are extended to certain countries, the preparatory manifesto will make mention of agricultural distress, financial embarrassment, and the sinking fund. But, to complete all the charges against Spain, the Russian Emperor finishes his invective with the awful assertion, that, on the 7th of July, "blood was seen to flow in the palace of the King, and a civil war raged throughout the Peninsula." It is true that a revolt has been excited in some of the provinces. But by whom? An ally. It was produced by those cordons of troops, which were posted on the Spanish frontier, armed with gold and with steel, and affording shelter and assistance by force, to those in whose minds disaffection had been excited by bribery. It is also true that blood has been shed. But would it not be supposed, by any person unacquainted with the fact, and who only read the statement in the manifesto, that this was blood shed in an attempt to dethrone Ferdinand, and introduce some new and unheard-of form of government? At any rate, does not this statement plainly intend it to be supposed, that the constitutional party had made the onset, and shed royalist, if not royal blood? But what is the fact? A few persons were killed who had first attacked the constitutionalists, in other words, mutinied against the established government—the government which the Emperor Alexander himself recognized as legitimate in 1812; and this he has now the audacity to call the shedding

of blood by Spaniards in the palace of the King!—As well might he accuse the people, the parliament, and the crown of England, of causing blood to flow, in the palace of the king," for ordering their sentinels to fire on some person whom they found attempting to assassinate the sovereign, as accuse the Spaniards of such a crime, for the events which happened in July, 1822.

I shall pass over many other heavy charges levelled at the Spaniards, in phrases of terrible import—as harbouring a "disorganized philosophy,"—"indulging in dreams of fallacious liberty,"—and the want of "venerable and sacred rights," with which the Prussian Note is loaded to repletion: and shall proceed to the Russian, which objects to the Spaniards their want of the "true conservative principal of social order"—or, in other words, of despotic power, in the hands of one man, for his own benefit, at the expense of all mankind besides; and to their not falling within the scope of those "grand truths," which, though they were ever in their mouths, were nowhere explained by any one of the three sovereigns. The Austrian Note discourses largely of "the solid and venerable claims" which the Spanish nation has upon the rest of Europe: prays it to adopt a better form of government than it has at present; and calls upon it to reject a system which is at once "powerful and paralyzed." It would be disgusting to enter at any length into papers, at once so despicable in their execution, and in their plan so abominably iniquitous. There is but one sentiment held regarding them out of the House; and my excuse for taking notice of them now, is my desire to call forth a similar expression of feeling from the House itself. Monstrous, and insolent, and utterly unbearable, as all of them are, I consider that of Russia to be more monstrous, more insolent, and more prodigiously beyond all endurance, than the rest. It is difficult to determine which most to admire—the marvellous incongruity of her language and conduct now, with her

former most solemn treaties—or the incredible presumption of *her* standing forward to lead the aggression upon the independence of all free and polished states. Gracious God! Russia!—Russia!—a power that is only half civilized—which, with all her colossal mass of physical strength, is still quite as much Asiatic as European—whose principles of policy, foreign and domestic, are completely despotic, and whose practices are almost altogether Oriental and barbarous! In all these precious documents, there is, with a mighty number of general remarks, mixed up a wondrous affectation of honest principles—a great many words covering ideas that are not altogether clear and intelligible; or, if they happen to be so, only placing their own deformity in a more hideous and hateful light: but, for argument, or anything like it, there is none to be found from the beginning to the end of them. They reason not, but speak one plain language to Spain and to Europe, and this is its sum and substance:—"We have hundreds of thousands of hired mercenaries, and we will not stoop to reason with those whom we would insult and enslave." I admire the equal frankness with which this haughty language had been met by the Spanish Government. The papers which it has sent forth are plain and laconic.—Borrowing for liberty, the ancient privilege of tyrants—to let their will stand in the place of argument—they bluntly speak this language;—"We are millions of freemen, and will not stoop to reason with those who threaten to enslave us." They hurl back the menace upon the head from which it issued, little caring whether it came from Goth, or Hun, or Calmuck; with a frankness that outwitted the craft of the Bohemian, and a spirit that defied the ferocity of the Tartar, and a firmness that mocked the obstinacy of the Vandal. If they find leagued against them the tyrants by whom the world is infested, they may console themselves with this reflection, that wherever there is an Englishman, either

of the old world or of the new—wherever there is a Frenchman, with the miserable exception of that little band which now, for a moment, sways the destinies of France in opposition to the wishes and interests of its gallant and liberal people—a people which, after enduring the miseries of the Revolution, and wading through its long and bloody wars, are entitled, Heaven knows, if ever any people were, to a long enjoyment of peace and liberty, so dearly and so honourably purchased—wherever there breathes an Englishman or a true-born Frenchman—wherever there beats a free heart or exists a virtuous mind, there Spain has a natural ally, and an inalienable friend. For my own part, I cannot but admire the mixture of firmness and forbearance which the Government of Spain has exhibited. When the Allied Monarchs were pleased to adopt a system of interference with the internal policy of Spain—when they thought fit to deal in minute and paltry criticisms upon the whole course of its domestic administrations—when each sentence in their manifestoes was a direct personal insult to the government, nay, to every individual Spaniard—and when the most glaring attempts were made in all their State papers to excite rebellion in the country, and to stir up one class of the community against the other—it would not have surprised me, if, in the replies of the Spanish Government, some allusion had been made to the domestic policy of the Allied Sovereigns; or if some of the allegations which had been so lavishly cast upon it, had been scornfully retorted upon those who had so falsely and so insolently called them forth. What could have been more pardonable, nay, what more natural, than for the Spanish Government to have besought his Prussian Majesty, who was so extremely anxious for the welfare and good government of Spain—who had shown himself so minute a critic on its laws and institutions, and who seemed so well versed in its recent history—to remember the promises which he made

some years ago to his own people, by whose gallant exertions, on the faith of those promises, he had regained his lost crown? What could have been more natural than to suggest, that it would be better, aye, and safer too in the end, to keep those promises, than to maintain, at his people's cost, and almost to their ruin, a prodigious army, only safely employed when in the act of ravaging the territories, or putting down the liberties, of his neighbours? The Government of Spain would have had a right to make such representations, for his Prussian Majesty owed much, very much, to its exertions; indeed, the gallant resistance which it made to the invasion of Buonaparte had alone enabled Prussia to shake off the yoke; while, on the other hand, the Spaniards owed a debt of gratitude to the brave and honest people of Prussia for beginning the resistance to Buonaparte in the north. Could anything, I will also ask, have been more natural for the Spanish Government, than to have asked the Emperor of Austria, whether he, who now pretended to be so scrupulously fond of strict justice in Ferdinand's case, when it cost him nothing, or must prove a gain, had always acted with equal justice towards others, when he was himself concerned? Could anything have been more natural, than suggesting to him, that before he was generous to King Ferdinand, he might as well be just to King George; that he had better not rob the one to pay the other—nay, that he ought to return him the whole, or at any rate, some part of the millions, principal and interest, which he owed him?—a debt which, remaining unpaid, wastes the resources of a faithful ally of Spain, and tends mightily to cripple his exertions in her behalf. I wish likewise to know what could have been more natural—nay, if the doctrine of interference in the internal concerns of neighbouring nations be at all admitted—what could have been more rightful, in a free people, than to have asked him how it happened that his dungeons were filled with all that

was noble, and accomplished, and virtuous, and patriotic in the Milanese?—to have called on him to account for the innocent blood which he had shed in the north of Italy?—to have required at his hands satisfaction for the tortures inflicted in the vaults and caverns where the flower of his Italian subjects were now languishing? to have demanded of him some explanation of that iron policy which has consigned fathers of families, the most virtuous and exalted in Europe, not to the relief of exile or death, but to a merciless imprisonment for ten, fifteen, and twenty years, nay, even for life, without a knowledge of the charge against them, or the crime for which they are punished? Even the Emperor Alexander himself, tender and sensitive as he is at the sight of blood flowing within the precincts of a royal palace, —a sight so monstrous, that if his language could be credited, it had never before been seen in the history of the world,—might have been reminded of passages in that history, calculated to lessen his astonishment at least, if not to soothe his feelings; for the Emperor Alexander, if the annals of Russian story may be trusted, however pure in himself, and however happy in always having agents equally innocent, is nevertheless descended from an illustrious line of ancestors, who have, with exemplary uniformity, dethroned, imprisoned, and slaughtered, husbands, brothers, and children. Not that I can dream of imputing those enormities to the parents, or sisters, or consorts; but it does happen that those exalted and near relations had never failed to reap the whole benefit of the atrocities, and had ever failed to bring the perpetrators to justice. In these circumstances, if I had had the honour of being in the confidence of his Majesty of all the Russias, I should have been the last person in the world to counsel my Imperial Master to touch upon so tender a topic—I should humbly have besought him to think twice or thrice, nay, even a third and a fourth time, before he ventured to allude to so delicate a

subject—I should, with all imaginable deference, have requested him to meddle with any other topic—I should have directed him by preference to every other point of the compass—I should have implored him rather to try what he could say about Turkey or Greece, or even Minorca, on which he has of late been casting many an amorous glance—in short, anything and everything, before he approached the subject of "blood flowing within the precincts of a royal palace," and placed his allusion to it, like an artful rhetorician, upon the uppermost step of his climax. I find, likewise, in these self-same documents, a topic for which the Spanish Government, had it been so inclined, might have administered to the Holy Alliance another severe lecture; I allude to the glib manner in which the three Potentates now talk of an individual, who, let his failings or even his crimes be what they may, must always be regarded as a great and a resplendent character—who, because he was now no longer either upon a throne or at liberty, or even in life, is described by them, not merely as an ambitious ruler, not merely as an arbitrary tyrant, but as an upstart and an usurper. This is not the language which those Potentates formerly employed, nor is it the language which they are now entitled to use regarding this astonishing individual. Whatever epithets England, for instance, or Spain, may have a right to apply to his conduct, the mouths of the Allies at least are stopped: *they* can have no right to call him usurper—they who, in his usurpations, had been either most greedy accomplices or most willing tools. What entitles the King of Prussia to hold such language now?—he who followed his fortunes with the most shameless subserviency, after the thorough beating he received from him, when trampled upon and trodden down in the year 1806? Before he had risen again and recovered the upright attitude of a man he fell upon his knees, and still crouching before him who had made him crawl in the dust, kissed the

blood-stained hand of Napoleon for leave to keep His Britannic Majesty's foreign dominions, the Electorate of Hanover, which the Prussian had snatched hold of while at peace with England.—So the Emperor Alexander, after he had also undergone the like previous ceremony, did not disdain to lick up the crumbs which fell from the table of his more successful rival in usurpation. Little, it is true, was left by the edge of Gallic appetite; but rather than have nothing—rather than desert the true Russian principle of getting something on every occasion, either in Europe or in Asia (and of late years they had even laid claim to an almost indefinite naval dominion in America)—rather than forego the Calmuck policy for the last century and a half, of always adding something, be it ever so little, to what was already acquired, be it ever so great—he condescended to receive from the hand of Buonaparte a few square leagues of territory, with an additional population of some two or three thousand serfs. The object was trifling indeed, but it served to keep alive the principle. The tender heart of the father, overflowing, as his Imperial grandmother had phrased it, with the milk of human kindness for all his children, could not be satisfied without receiving a further addition to their numbers; and therefore it is not surprising, that on the next occasion he should be ready to seize, in more effectual exemplification of the principle, a share of the booty, large in proportion as his former one had been small.—The Emperor of Austria, too, who had entered before the others into the race for plunder, and never weary in ill-doing, had continued in it till the very end—he who, if not an accomplice with the Jacobins of France in the spoliation of Venice, was at least a receiver of the stolen property—a felony, of which it was well said at the time in this House, that the receiver was as bad as the thief—that magnanimous Prince, who, after twenty years' alternation of truckling and vapouring—now the feeble enemy of

Buonaparte, now his willing accomplice—constantly punished for his resistance, by the discipline invariably applied to those mighty Princes in the tenderest places, their capitals, from which they were successively driven—as constantly, after punishment, joining the persecutor, like the rest of them, in attacking and plundering his allies—ended, by craving the honour of giving Buonaparte his favourite daughter in marriage. Nay, after the genius of Buonaparte had fallen under the still more powerful restlessness of his ambition—when the star of his destiny had waned, and the fortune of the allies was triumphant, through the roused energies of their gallant people, the severity of the elements, his own turbulent passions, and that without which the storms of popular ferment, and Russian winter, and his own ambition, would have raged in vain, the aid of English arms, and skill, and gallantry—strange to tell, these very men were the first to imitate that policy against which they had inveighed and struggled, and to carry it farther than the enemy himself in all its most detestable points. I maintain that it is so; for not even by his bitterest slanderers was Buonaparte ever accused of actions so atrocious as was the spoliation of Norway, the partition of Saxony, the transfer of Genoa, and the cession of Ragusa, perpetrated by those in whose mouths no sound had been heard for years but that of lamentation over the French attacks upon national independence. It is too much, after such deeds as these—it is too much, after the allies had submitted to a long course of crouching before Buonaparte, accompanied by every aggravation of disgrace—it is too much for them now to come forth and revile his memory for transactions, in the benefits of which they participated at the time, as his accomplices, and the infamy of which they have since surpassed with the usual exaggeration of imitators. I rejoice that the Spaniards have only such men as these to contend with. I know that there are fearful odds when battalions are

arrayed against principles. I may feel solicitous about the issue of such a contest. But it is some consolation to reflect, that those embodied hosts are not aided by the merits of their chiefs, and that all the weight of character is happily on one side. It gives me, however, some pain to find that a monarch so enlightened as the King of France has shown himself on various occasions, should have yielded obedience, even for an instant, to the arbitrary mandates of this tyrannic Junto. I trust that it will only prove a temporary aberration from the sounder principles on which he has hitherto acted: I hope that the men, who appear to have gained his confidence only to abuse it, will soon be dismissed from his councils; or if not, that the voice of the country, whose interests they are sacrificing to their wretched personal views, and whose rising liberties they seem anxious to destroy, in gratification of their hatred and bigotry, will compel them to pursue a more manly and more liberal policy. Indeed, the King of France has been persuaded by the parasites who at present surround him, to go even beyond the principles of the Holy Alliance. He has been induced to tell the world, that it is from the hands of a tyrant alone that a free people can hold a Constitution. That accomplished Prince—and all Europe acknowledges him to be, amongst other things, a finished scholar—cannot but be aware that the wise and good men of former times held far other opinions upon this subject; and if I venture to remind him of a passage in a recently recovered work of the greatest philosopher of the ancient world, it is in the sincere hope that his Majesty will consider it with all the attention that is due to such high authority. That great man said, "Non in ulla civitate, nisi in qua summa potestas populi est, ullum domicilium libertas habet." I recommend to his Most Christian Majesty the reflection, that this lesson came not only from the wisdom of so great a philosopher, but also from the experience of so great a statesman.

I would have him remember that, like himself, he lived in times of great difficulty and of great danger—that he had to contend with the most formidable conspiracy to which the life, property, and liberty of the citizen had ever been exposed—that, to defeat it, he had recourse only to the powers of the Constitution—threw himself on the good-will of his patriotic countrymen—and only put forth the powers of his own genius, and only used the wholesome vigour of the law. He never thought of calling to his assistance the Allobroges, or the Teutones, or the Scythians of his day; and I now say, that if Louis XVIII. shall call upon the modern Teutones or Scythians to assist him in this unholy war, the day their hordes move towards the Rhine, judgment will go forth against him, and his family, and his councillors; and the dynasty of Gaul will have ceased to reign.

What, I ask, are the grounds on which the necessity of this war is defended? It is said to be undertaken because an insurrection has broken out with success at Madrid. I deny this to be the fact. What is called an insurrection, was an attempt to restore the lawful Constitution of the country—a Constitution which was its established government, till Ferdinand overthrew it by means of a mutiny in the army; and therefore, when a military movement enabled the friends of liberty to recover what they had lost, it is a gross perversion of language to call this recovery, this restoration by the name of insurrection,—an insidious confusion of terms, which can only be intended to blind the reason, or play upon the prejudices, of the honest part of mankind. Let the pretext, however, for the war, be what it may, the real cause of it is not hard to conjecture. It is not from hatred to Spain or to Portugal that the Allied Sovereigns are for marching their swarms of barbarians into the Peninsula—it is not against freedom on the Ebro, or freedom on the Mincio they make war. No, it is against *freedom!*—against freedom wherever it

is to be found—freedom by whomsoever enjoyed—freedom by whatever means achieved, by whatever institutions secured. Freedom is the object of their implacable hate. For its destruction, they are ready to exhaust every resource of force and fraud. All the blessings which it bestows,—all the establishments in which it is embodied, the monuments that are raised to it, and the miracles that are wrought by it,—they hate with the malignity of demons, who tremble while they are compelled to adore; for they quiver by instinct at the sound of its name. And let *us* not deceive ourselves! These despots can have but little liking towards this nation and its institutions, more especially our Parliament and our Press. As long as England remains unenslaved; as long as the Parliament continues a free and open tribunal, to which the oppressed of all nations under heaven can appeal against their oppressors, however mighty and exalted—and with all its abuses (and no man can lament them more than I do, because no man is more sensible of its intrinsic value, which those abuses diminish), with all its imperfections (and no man can be more anxious to remove them, because none wishes more heartily, by restoring its original purity, to make it entirely worthy of the country's love),—it is still far too pure and too free to please the taste of the continental despots—so long must England be the object of their hatred, and of machinations, sometimes carried on covertly, sometimes openly, but always pursued with the same unremitting activity, and pointed to the same end.—But it is not free states alone that have to dread this system of interference; this plan of marching armies to improve the political condition of foreign nations. It is idle to suppose that those armed critics will confine their objections to the internal policy of popular governments. Can any one imagine, that, if there be a portion of territory in the neighbourhood of the Emperor Alexander peculiarly suited to his

views, he will not soon be able to discover some fault, to spy out some flaw in its political institutions requiring his intervention, however little these may savour of democracy, supposing it even to be a part of the Ottoman Empire itself? If his Imperial Majesty be present in council with his consistory of jurists and diplomatists, I believe that it will be in vain for the Ulemah, to send a deputation of learned Muftis, for the purpose of vindicating the Turkish institutions. These sages of the law may contend that the Ottoman government is of the most "venerable description"—that it has "antiquity in its favour"—that it is in full possession of "the conservative principle of social order" in its purest form—that it is replete with "grand truths;"—a system "powerful and paralyzed"—that it has never lent an ear to the doctrines of a "disorganized philosophy"—never indulged in "vain theories," nor been visited by such things as "dreams of fallacious liberty." All this the learned and reverend deputies of the Ulemah may urge, and may maintain to be true as holy Koran: still "The Three Gentlemen of Verona," I fear, will turn a deaf ear to the argument, and set about prying for some imperfection in the "pure and venerable system"—some avenue by which to enter the territory; and, if they cannot find a way, will probably not be very scrupulous about making one. The windings of the path may be hard to trace, but the result of the operation will be plain enough. In about three months from the time of deliberation, the Emperor Alexander will be found one morning at Constantinople—or if it suit him, at Minorca—for he has long shown a desire to have some footing in what he pleasantly termed the "western provinces" of Europe, which, in the Muscovite tongue, signifies the petty territories of France and Spain, while Austria and Prussia will be invited to look for an indemnity elsewhere; the latter, as formerly, taking whatever the King of England may

have on the continent. The principles on which this band of confederated despots have shown their readiness to act, are dangerous in the extreme, not only to free states (and to those to which no liberty can be imputed) but also to the states over which the very members of this unholy league preside. Resistance to them is a matter of duty to all nations, and the duty of this country is especially plain. It behoves us, however, to take care that we rush not blindly into a war. An appeal to arms is the last alternative we should try, but still it ought never to be so foreign to our thoughts as to be deemed very distant, much less impossible: or so foreign from our councils as to leave us unprepared. Already, if there is any force in language, or any validity in public engagements, we are committed by the defensive treaties into which we have entered. We are bound by various ties to prevent Portugal from being overrun by an enemy. If (which Heaven avert!) Spain were overrun by foreign invaders, what would be the situation of Portugal?—Her frontier on the side of Spain can scarcely be said to have an existence; there is no defending it anywhere; and it is in many places a mere imaginary line, that can only be traced on the page of the geographer; her real frontier is in the Pyrenees; her real defence is in their fastnesses and in the defence of Spain; whenever those passes are crossed, the danger which has reached Spain will hang over Portugal. If we acknowledge the force of treaties, and really mean that to be performed for which we engaged, though we may not be bound to send an army of observation to watch the motions of the French by land, because that would be far from the surest way of providing for the integrity of our ally, at least we are bound to send a naval armament; to aid with arms and stores; to have at all times the earliest information; and to be ready at any moment to give effectual assistance to our ancient ally. Above

all things, we ought to do that which of itself will be a powerful British armament by sea and by land—repeal without delay the Foreign Enlistment Bill—a measure which, in my opinion, we ought never to have enacted, for it does little credit to us either in policy or justice. I will not, however, look backward to measures on the nature of which all may not agree; I will much rather look forward, to avoid every matter of vituperation, reserving all blame for the foreign tyrants whose profligate conduct makes this nation hate them with one heart and soul, and my co-operation for any faithful servant of the Crown, who shall, in performing his duty to his country, to freedom, and to the world, speak a language that is truly British—pursue a policy that is truly free—and look to free states as our best and most natural allies against all enemies whatsoever; allies upon principle, but whose friendship is also closely connected with our highest interests;—quarrelling with none, whatever may be the form of their government, for that would be copying the faults we condemn;—keeping peace wherever we can, but not leaving ourselves a moment unprepared for war;—not courting hostilities from any quarter, but not fearing the issue, and calmly resolved to brave it at all hazards, should it involve us in the affray with them all;—determined to maintain, amid every sacrifice, the honour and dignity of the Crown, the independence of the country, the ancient law of nations, the supremacy of all separate states; all those principles which are cherished as most precious and most sacred by the whole civilized world.

SPEECH

IN ANSWER TO

MR. PEEL'S CHARGES

AGAINST

THE EDUCATION COMMITTEE.

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HOUSE OF COMMONS —JUNE 23, 1819.

AFTER the speech of the Right Honourable Gentleman, the House, I feel confident, will extend its indulgence to me. Suddenly called upon, without any the least notice, to defend my individual conduct, and that of my colleagues in the Committee, whose confidence I am proud to have enjoyed from the first day that I filled its chair, to the last when I reported its proceedings, I rise under the additional disadvantage of almost every one of its members being absent, to meet, thus unprepared and unsupported, the long premeditated and much-laboured harangue of our accuser, surrounded by those who were doubtless well aware of the charge about to be preferred against us. (*Some members here were observed leaving the House.*) And, Sir, while I lament the absence of the Committee, I cannot but laud the exemplary conduct of those who, having been present during the attack, are taking this opportunity of departing that they may not listen to the defence. They hardly yield in fairness to their Honourable leader. He, with a singular delicacy and equal fairness, has selected a moment for his onset, when he thought he should catch the accused unprepared, and so have him convicted without a defence. They, contented with listening to the charges, are leaving us, quite satisfied with my inability to repel them. To

repel all and each of them, however, I shall instantly proceed. I delay not a moment to perform this duty, which I owe to others no less than to myself; and in order to meet the peculiar fastidiousness which the Right Honourable gentleman has shown on matters of form—to satisfy that very nice and even morbid sense of order by which he is tormented, and of which he has made so mighty a parade in his solemn lecture upon Parliamentary procedure—I begin by stating that, before I sit down, I shall move to refer the Education Committee's report to a Committee of the whole House.

I feel, indeed, my situation to be almost unexampled. Without any kind of notice—anything that could give me a suspicion of such a discussion by possibility arising, as that into which I am thus hurried; without reflection or preparation, or one document, or a single note to help my memory of the details, I am called upon to answer a laboured and artificial invective against my conduct and that of my colleagues, from the year 1816, down to the present day. But meet it I must. I well know how I should be treated, were I to withdraw from the conflict. It would be said that the Right Honourable gentleman's observations were too strong to be faced—that they cut too deep, and went too near the bone—that they were not loose insinuations or vague invectives—that his performance was not composed of schoolboy rant or college declamation—that he, a business-like personage, gave chapter and verse for all he alleged, dealing largely in names and dates; and if his charges were left unanswered, it was only because they were unanswerable. The Committee's absence would be accounted no reason for delay; I, at least, it would be said, was present, and could require no notice of that which I should at all times be prepared to defend—my past conduct, no matter how arraigned, or how unexpectedly the charges so maturely prepared, so industriously gathered from so many quarters, might have been brought forward

against us. Wherefore I enter forthwith upon my defence against that lecture, the produce of the daily toil, the midnight oil, of the Right Honourable gentleman, aided probably by sundry fellows of colleges, who never crossed the precincts of their Vice-Chancellor's peculiar jurisdiction, and certainly distinguished by all that knowledge of the law, and of the customs of Parliament, which might be looked for in those academical authorities.

The Right Honourable gentleman has charged me with grave offences, which he has visited with what he doubtless considered as a punishment adequate to the gravest of crimes—the weight of his censure—a censure delivered almost as if it had proceeded from the Chair; and which, I must say in passing, would have been nearly as forcible, though it probably would have been less solemn, had it fallen from the chair. In circumstances so unprecedented, gentlemen are now most unexpectedly called upon to decide against the Committee's reports, and against my conduct and that of my excellent colleagues, and against the conduct of this House, during two successive sessions, both as regards our acts and deeds, and as regards our omissions. But if I do not now satisfy all who hear me, that the committee were right, that I was right, that this House was right, and the Right Honourable gentleman wrong —if I do not succeed in proving to the heart's content of every one man of common candour and ordinary understanding, that the Right Honourable gentleman is utterly wrong in all his charges—wrong from the beginning to the end of his laboured oration—if I do not in a few minutes, and by referring to a few plain matters, strip that performance of all claim to credit—if I do not show him to be mistaken in his facts, out in his dates, at fault in his law, ignorant of all Parliamentary precedent and practice, grossly uninformed, perhaps misinformed, upon the whole question which in an evil hour he has undertaken to handle, with no

better help than the practical knowledge and discretion of those who have urged *him* on to the assault, while they showed only a vicarious prodigality of their own persons—then I will consent to suffer—what shall I say?—to endure whatever punishment the Right Honourable gentleman may think fit to inflict upon me and my colleagues—even the weight of his censure—which will assuredly, in his estimation, be fully equal to our demerits, how great soever they may be. But I venture to hope that the House, mercifully regarding my situation while such a judgment is impending, will allow me, ere the awful decree goes forth, to avert, if it be possible, from our devoted heads, a fate so overwhelming.

The Bill immediately before the House, and the important question of exempting Specially Visited Charities which my former speech had raised, obtained but a small share of the Right Honourable gentleman's attention. He was not here for any such purpose as debating that matter. He was hurrying on to his severe attack—that was what he must at all hazards get at—the matter in question before us signified nothing; yet he said just enough on that to show that he completely misapprehended the whole drift of the legal discussion. When he treated the argument respecting special visitors as reasoning from analogy, to be sure he made a sort of apology for not being able to grapple with such points. But then, why did he touch them at all, if he confesses his incapacity to handle them? Would it not have been as well to leave the subject in the hands of those who could comprehend it, such as his truly learned and honourable colleague,* and not in so merciless a fashion show off himself and his ignorance? Besides, his incapacity to follow the legal argument did not make him at all slow to pronounce an unqualified and dictatorial judgment upon it. But all this he

* Sir S. Sheperd, Attorney-General.

speedily despatched, and came to the main business of the day. First of all he charged me with not having brought forward the subject early in the season, when, it seems, he was anxiously waiting for an occasion to deliver himself. But cannot he recollect what it was that prevented me? Is he so entirely ignorant of what passed at the very opening of Parliament? If he be, where shall he find another member in the House who has so completely forgotten it? It seems he must be reminded of these things, and reminded he shall be. At the very beginning of the session I was prepared to move for the reappointment of the Education Committee. This was well known; my determination to make the motion was no secret. Indeed, no one could have read my printed letter to Sir Samuel Romilly and doubted it. Well, on the second night of the session, and before I had time to give my notice, the member for Liverpool,* came down with a notice from his Noble friend,† who is generally considered as the organ of the Government in this House. Whether he be so or no I will not stop to inquire; for on this point also I may differ from the Right Honourable gentleman; but be that as it may, I and, I believe, the rest of the House are wont to regard the Noble lord as the leading personage on that side. The tendency, the necessary effect, nay I may say the avowed intention of that notice, was to make me postpone my motion. I thought I was the more safe in doing so, as the Right Honourable gentleman had not then assumed the supreme direction of affairs, and the notice was a statement that the Minister of the Crown intended immediately to introduce a specific measure which might render my motion unnecessary. The Right Honourable gentleman knew all this; he knew that the proceedings of the Government must have the effect of silencing me, at least until the bill was brought

* Mr. Canning. † Lord Castlereagh.

in; and yet he now comes forward to tax me with having refrained from proposing any measure until the end of the session. My only object in desiring the reappointment of the Committee was to remedy the defects in the measure of last year. I came openly and fairly forward to complain of those defects. I did not lurk behind. I did not allow the proceedings of 1816, 1817, and 1818, to go unnoticed. I disapproved of the measures brought forward last year. I lamented the course pursued; and I fairly avowed my disapprobation. I felt it necessary to back the Commissioners, armed with imperfect authority, by the ample powers of the Committee, because I deemed them crippled by the checks and the defects in the constitution of the Board. This was one reason for my moving the reappointment. But the Noble lord's measure was announced as an augmentation of the Commissioners' powers. Another reason was, that the objects of inquiry had been limited, and a Committee was desirable to investigate those cases which the Board were precluded from examining. But the Noble lord's measure comprehended an extension also of the objects of inquiry. Here, then, was the prospect held out of such a measure as might possibly render the reappointment of the Committee wholly unnecessary; but at any rate, until it was seen how the measure would be framed, who could for a moment expect me to persist blindly in moving for the Committee? What man in or out of the House but must have perceived that the ministerial notice at once and effectually suspended for the present any further proceedings?

"But," says the Right Honourable gentleman, "who could have thought that a committee appointed to inquire into the Education of the Poor in the metropolis would call before them and examine the masters of Eton and Westminster?" The master of Eton School had been, prior to last session, called before the Committee. I much doubt—

Mr. PEEL—I said the master of the Charter-House School.

Mr. BROUGHAM—Well, then, the Right Honourable gentleman expresses his surprise that the masters of Westminster and the Charter-House have been examined. Did he not know this from the Report of the Committee in 1816? Had he not there the evidence of his senses that their examination had been entered upon, which now strikes him with amazement? I in my turn have a right to marvel,—to lift up my hands and my eyes in wonder at the conduct of the Right Honourable member. Is it not food for astonishment to those who, after what they have heard to-night, can wonder at anything, to perceive that the Right Honourable gentleman, with all the evidence before him of the offences committed in 1816, should have waited until 1819, before he made one single remark on the manner in which the Committee overstepped the bounds of its instructions three years before? The natural time for complaint against the inquiries of 1816, was when the result of those inquiries was laid upon that table by me, and discussed and animadverted upon by others. The Right Honourable member, it is true, was not then installed in his present academical situation,* and was only looking upwards to the height he has since attained. But the iniquities which had escaped the penetration of expectant zeal, were again overlooked by the circumspection of calm and quiet possession. When others objected to the proceedings of 1816, and among them the member for Liverpool,† who in a fair, manly, candid manner, took the earliest opportunity of expressing his doubts whether the Committee had not gone too far, the Right Honourable gentleman, now all clamorous with astonishment at events three years old, was then dumb, not with amazement, but with indifference, at those same events then recent or actually passing be-

* Representative of Oxford. † Mr. Canning.

fore his face. But in 1817 he was in the House which reappointed the Committee; and had he disapproved its former conduct, he might have opposed its renewal, or insisted upon restricting its powers. At any rate, if he deemed that we had, through mistake of our province, exceeded the authority under which we acted, as he says, he blames nobody,—he only regrets, and laments, and observes,—and far be it from him to impute any motive, and so forth, according to approved precedents of skilful vituperation,—surely it would have been but fair to warn us against pursuing the course we had been betrayed into by our zeal, which alone he complains of, while acting under the self-same commission. But no such thing,—still not a whisper from the Right Honourable gentleman. In 1818, the same profound silence, when, for the third time, the Committee was appointed; and afterwards, day after day, for weeks, to the very end of the session, when reports were laid upon the table, and were made the subject of constant discussions; although he was now the delegate of the body which he this day so faithfully represents,—a body whose attachment to constitutional freedom, and whose love of free inquiry, and whose hatred of abuse, stand recorded in every page of our history,—it seems that he alone of all in, and almost all out of the House, heard nothing of what was doing in the Education Committee. But though his ears may have been closed to everything that was passing around him, surely his more faithful eyes could not have deceived him when the printed Reports were put into his hands. Besides, the Committee was not a secret one; it was open to all the House; any member might attend it; many, in fact, did daily frequent it, who were not upon it. The whole proceedings,—the very inquiries into schools and universities—were in all men's mouths,—they formed the general topic of conversation, the town as well as the college talk. The Right Honourable gentleman must therefore have heard for

years, of what he now inveighs against with all the artless ardour of fresh passion, and stands aghast before, in all the innocence of ingenuous astonishment and sudden dismay! Then, when the dreadful mischief might have been stayed in its course, if not wholly prevented, not a sign was made,—not an expression of warning to the victim, any more than of deprecation or menace to the aggressor, escaped him. Now, when it is all at an end, the danger has passed over his head for years, and most people have forgotten everything about it, he comes down straining with wonder, and bursting with indignation. By way of aggravation, too, if his charge was in itself too light, he now urges that one of the instructions to the Committee which has presumed to inquire into public schools, was to consider the state of poor children found begging in the streets of the metropolis. Does not he know the history of that clause in our instructions? Has he never heard, what all the House knows, that it formed no part of the original commission under which we acted? Can he be ignorant that it was added some time after the Committee was appointed, and added on the motion of Mr. George Rose; and, furthermore, that nobody save Mr. George Rose ever paid the smallest attention to it? But whatever might be its origin or its fate, surely the Right Honourable gentleman must know that it formed no part at all of the Committee's instructions in 1817 and 1818, when the horrible inquiries which alarm him were perpetrated. How, then, does it happen that his serenity of mind was never in the least degree ruffled during the year 1816, when the Committee, acting under such an instruction, presumed to examine the Charter-House and Westminster School; but now, when the Committee had been reappointed without any such instruction at all, he is utterly astonished at their proceeding in the course which, quietly and without one gesture of surprise, he had seen them pursue three years ago, while the hateful clause about beggars' chil-

dren was in full force? To be sure, it might not, at that early day, have been quite so easy to raise an outcry against the Committee, because the foul misrepresentations of its conduct had not then been industriously disseminated, which make it now somewhat safer to join in the attack. But be the reason what it may, certain it is that until this very evening, not a twinkling spark was ever descried of the fiery zeal which has now burst forth for good order, and the foundations of all establishments, and the regularity of all proceedings, and the rights of the subject, and the duty of protecting him from the aggression of committees. All was then serene in the quarter from whence now proceeds a blaze no doubt intended, probably expected, utterly to consume the Committee and all its works; a blaze from which it is very strange, nor can I tell how, except by God's good providence, we have escaped unscathed.

However, as after all, incredible though it may appear to the Right Honourable gentleman, the fact seems to be, that we have survived the tremendous explosion, "that great and apparent danger," as the Liturgy has it, "wherewith we were encompassed in this place"—it remains for us to pursue our defence as best we may; and I shall next advert to the charge of having packed the Committee; than which I never yet heard any more groundless accusation, nor one supported by a more entire contempt of all facts and dates. But first, suppose I had named a larger proportion of my own friends upon the Committee, is there no precedent for this selection by the mover? I will just remind the Right Honourable gentleman of the course taken by some folks when they happen to have the naming of committees—committees, too, in which the complexion of men's general political opinions and party attachments is infinitely more important than in an inquiry concerning the education of the poor. I will take the very last select committee

named by the Right Honourable gentleman's own friends—the Finance Committee. Of twenty-one that composed it, at least twelve were members who always vote with the Government; but I believe I might say fourteen: however, suppose them only twelve: four belonged to those whom he calls neutral, and treats as a class of little account—neither one thing nor another—a sort of milk-and-water mixture; so that there remained only five Horatii, as he phrases it, to make a stand for the constitution.

Mr. Peel.—There were but three Horatii.

Mr. Brougham.—I am quite aware of that; I was speaking of their character, not of their number; but, indeed, any one might have known the number of the Horatii who had happened to frequent the Opera House of late years, even though he might not have had the advantage of an Oxford education, and thus been early embued with the two first chapters of the Roman History. However, the Right Honourable gentleman himself only kept to the true number of the Horatii, by mis-stating the number of neutral members on the Education Committee. If he had been content to adhere to the fact, as I shall presently show from the list just put into my hands unexpectedly by the worthy person at the table,* he must have been compelled either to abandon his jest from the school-book, or to increase the number of the Horatian family. Instead of the three worthy aldermen who have been called by such classical names, and who are broadly asserted to be the only members from the opposite side of the House, how happens it that the Right Honourable gentleman thought proper to leave out some eight or ten others of the same description? Is Mr. Henry Wrottesley, for example, a member who usually votes with me? Is Mr. Wolfe a member who ever so votes? Is Mr. Charles Grant? Is Mr.

* Mr. Dyson.

Sheldon? Then why did he pass over all these names in order to allege that there were but three ministerial members named? Was the joke so very pleasant,—was the classical allusion so exceedingly relishing, as to be worth purchasing at such a price? But he left out a number of others: and it won't do to say they were added when the inquiry was extended to Scotland. Some were put in long before any such extension was in contemplation. [*Here Mr. Brougham went into the dates of the several appointments, as these appear on the journals of the House, and enlarged upon the construction of the Committee, and the party connexions of its members.*]—The Committee is allowed on all hands to have been selected from every part of the House. The Right Honourable gentleman himself has admitted that there were members from various sects, and he descanted learnedly upon the different squads and sections. The nomination of aldermen indeed appeared to puzzle him; but it is strange that one who has received so liberal an education, that he seems to think nobody else knows anything, should be unable to explain this phenomenon. Did it never occur to him, that as the Committee was originally appointed to examine the state of education in the metropolis, so it was a matter of course, according to the every day's practice of the House, to name the members for London and Westminster? They were therefore named, with the exception of Mr. Alderman Combe, whose health had prevented his attendance for a session or two. But were the interests of learning and the rights of the Universities left to the protection of those worthy magistrates? They served well, indeed, giving their patient attendance while the City charities were inquired into,—neither keeping out of the way while the matters which they understood best and took most interest in, were discussed—nor invidiously throwing obstacles in the way of the investigation—

nor coming out with retrospective censures when the proceedings were at an end. But there were others on the Committee, in whose hands the cause of learning seems to me to have been almost as safe as in those of the Right Honourable gentleman himself, who will suffer no one else to touch a college or a school. What does he think of Sir Samuel Romilly, of Sir James Mackintosh, of Mr. Frederick Douglas, of Mr. William Lamb, of Mr. Wilberforce, of Mr. John Smythe, the member for Cambridge University? And how happens he, in his much meditated lecture of this night, to have overlooked all these names, in order to represent the great establishments of education as left to the protection of three aldermen? But if a sufficient proportion of such members was not named upon the Committee, whose fault was that? Did I ever throw the least impediment in the way of increasing its numbers, even when I might think the Committee was becoming unwieldy from being too numerous? What gentleman ever asked to be added, whom I did not move for upon the spot? Whose nomination did I ever oppose? Did I not myself propose in the course of the inquiry, from time to time, seven or eight names, beside those I have now mentioned; and all of them ministerial members? I may mention Sir James Graham, when the St. Bees' affair was to be examined, because he was intimately connected with the Lowther family and estates—the Lord Advocate, Lord Binning, Mr. Hunter Blair, Mr. William Douglas, and Mr. Boswell, when the instruction was added as to Scotland; and all these members took part of course in the other inquiries, as well as during the single half hour devoted to the Scotch part of the subject. If the Right Honourable gentleman had desired to add any other names, does any one for a moment suppose that it would have been objected to? Can he himself really believe that I should not have been glad to adopt any such proposition? Why did

he not come forward with it at the right time? Why not ask to be put on the Committee himself? A single word, a hint would have sufficed, as he well knew. He must have known that he and as many of his friends as he might choose, would at once have been added. Then why did he not pursue so obvious a course at a time when he appears to have heard of nothing from day to day but the inroads made upon the Universities? It is mighty well for him to complain now of those attacks as something worse than sacrilege, for the purpose of aiding in this House the invidious and ignorant clamours raised out of doors. But where was he all the while the deeds of violence were doing, and before they were consummated? Then was the time to have come down, protesting, and declaring, and imploring. But no—he saw Oxford menaced—Cambridge invaded—Eton insulted—Winchester sacked—and still he made no move. The imminent peril even of his own *alma mater* could not draw a word from her son and representative; he left her with the rest to be defended from the outrages of a revolutionary Committee, by the prowess of the worthy and Horatian members for the City.

So much for the construction of the Education Committee. It is now fit that we see what was its conduct when its operations commenced. But here I must again complain of the unfair time and manner of the attack. I am left almost alone to defend the Committee. As far as argument goes, I perhaps have no great right to complain of this; for it may be said that it is my duty to be master of the subject. But is it nothing to be left without witnesses to my statements of fact? The worst insinuations are flung out, the most unfounded statements are made, respecting what passed in the Committee. Is it nothing to stand here deprived of the testimony which every one of my colleagues would have been ready to bear in my favour had they been present, and which all of them would, I well know,

have hurried to their places for the purpose of bearing, had they suspected that an attack would have been made, of which no mortal could possibly have dreamt? Nevertheless, without the benefit of such irrefragable evidence, and at a distance from every document and note which can serve to assist my recollection, and without a moment's notice to turn over in my mind the various details over which the Right Honourable gentleman has been poring, I cannot tell how long, or with what helps, I find myself suddenly dragged into the discussion of all that passed in the Committee from its appointment in 1816 to its dissolution at the end of the last Parliament. But I do not in any way shrink from the task. I shall leave no one remark of the Right Honourable gentleman unanswered. I trust to the indulgence of the House in permitting me to follow him thus closely; for it must be evident to all that the office conferred upon me is not of my seeking; and I again put my case upon this issue, that the Right Honourable gentleman is utterly wrong in every tittle of his accusations, and that I am myself content to have it said I have done nothing, if I shall not succeed in proving him to be wrong in all. But he said and repeatedly said, that he preferred no charge. Far be it from him to impute any impropriety; for his part he blamed no one in any respect. He was the last man in the world to make personal allusions. He accuse or attack anybody! Not he, indeed—nothing of the kind; and many were the changes he rung on these disclaimers, all through his speech, or rather through a large portion of it; for they were sown thickly among insinuations, and charges, and personalities as thickly sown. Each succeeding accusation was prefaced and concluded by some such denial of all intention to accuse anybody of anything; and the speech was wholly made up of invective, save and except the parts devoted to those denials of any design to inveigh. But what signify such special disclaimers in a harangue which, from

beginning to end, was one undisguised chain of inculpation? Or whom did he think he had to deal with that was likely to regard the parentheses only and overlook the substantial members of the discourse among which they were interjected? For my part, I must view all those candid professions as mere surplusage, and pass them over as wholly immaterial to the body of the charges into which they were so lamely and so uselessly introduced.

In this spirit, the Right Honourable gentleman said he would not affirm that the Committee had acted wrong, but he would assert the necessity of watching with great strictness all recommendations coming from such committees, and of scrutinizing all measures grounded upon their advice; in illustration of which position he referred to the clause in the original act giving the Commissioners powers to compel disclosures by imprisoning refractory witnesses. Now, a more infelicitous instance of his maxim he could not have given than this; for it does so happen that the clause which he read with so much pomp and circumstance was no invention of the Committee, and originated in no recommendation of theirs, but was copied from another act of Parliament, the handiwork of a ministry to which almost all the Right Honourable gentleman's friends belonged;* and it formed a distinguishing feature of the most remarkable act by far of that administration. I beg leave to refer him to those around him, for a more detailed account of its merits, and shall content myself with reading the words of the statute, in order to show how literally the clause was copied from the one act into the other bill. [*Mr. B. here read the section in question as it stands in the act for appointing Commissioners of Naval Inquiry*, 1802.] This provision, however, brought forward by Lord Sidmouth, and supported by all his colleagues, is now

* Messrs. Vansittart, Bragge Bathurst, Lord Castlereagh, &c.

an object of unspeakable alarm to the Right Honourable gentleman, who shows such a true regard for the liberty of the subject as is really touching, though not very happily timed; for all this noise is made about a clause which never passed, and yet its rejection was not even in the least degree owing to the Right Honourable gentleman, greatly as he dreaded such a provision; fatal as he deemed it to all the rights of property; and hostile as he held it to every principle of the constitution; it might have been the law of the land at this day for anything he ever did or said while the Bill of 1818 was in the House, and the dreaded provision under discussion. Till this hour he never opened his mouth upon the subject. Very different indeed was the conduct of the member for Liverpool,* whose manly and consistent demeanour it is impossible not to praise as often as it is mentioned, even at the risk of repeating the same expressions as have been already applied to it; but when a person acts again and again in the same laudable manner, the consequence is, that the example he sets draws forth a reiteration of the same commendations. He objected to the clause from the first, not as coming from the Committee, but upon the ground on which he had originally resisted it with great energy and ability, though without success, when Lord Sidmouth, or rather Lord St. Vincent, for the measure was his, introduced it into the Naval Inquiry Bill. He did not lie by until the eleventh hour, or rather until the work was done, and nothing remained but to carp and cavil. He did not keep back his objections, or leave others to urge them, and a year after the measures objected to had prevailed, and done all the mischief they ever could do, come forth with a solemn denunciation of mischievous intentions, which he had done nothing to frustrate or oppose before they were carried into effect.

* Mr. Canning.

Those parts of the Naval Inquiry Bill which he disapproved, he openly and fairly resisted, and at the time when his opposition might be effectual; and if there were parts of which he had not then expressed his dislike or his doubts, he at least did not now, after the Bill had passed into a law, and the Commission which it created had been a year at work, rise up and pronounce a sentence against them.

The grand charge against the Committee is their examining into the colleges and public schools. We have been attacked as if we had run a muck indiscriminately at all the seats of learning in the land. The prominent part of this charge is, our having dared to call before us the Master and Senior Fellows of St. John's, who are described as having been sent for abruptly to disclose the mysteries of their house, and treated rudely in the examination. Every part of the accusation is unfounded. The facts as they really stand are these:—Pocklington school in Yorkshire, had long been the scene of great and most notorious abuse, and the Committee were desirous of inquiring into it. It appears that the Master of St. John's is the visitor of the school, and that he had recently exercised his office (though for the first time, it may be remarked), by twice sending the Senior Fellows there to inquire and report. They had but just returned from the second of those missions, and the Master had been with them. The propriety of at once examining these learned and respectable persons themselves, both as to the nature of the endowment, and the result of their own inquiry, is obvious. It was both more fair towards them, and more expedient for the investigation, than to seek for information from less authentic quarters. But there is no pleasing some folks in the mode of proceeding, except perhaps by doing nothing at all. If the principals are called, it is denounced as an outrage upon the Heads of houses, who are pathetically described as dragged before an inquisitorial committee;

if the schoolmasters or the neighbours are alone summoned, the evidence is decried as drawn from imperfect, or partial, or tainted sources. Well, the Master and Fellows were examined; but I positively deny that any discourtesy was practised towards them by myself, or by any member of the Committee, as far as my recollection serves me. In the course of a long examination, in which a number of persons bore a part, it is impossible for me to remember every question put, or remark made, any more than I can be answerable for each interrogatory that appears on the minutes, though I have repeatedly seen myself made responsible for parts of the investigation in which I had never interfered at all, either by bringing forward the case, or asking any of the questions. But I repeat that I have no recollection of any one thing having passed which can be represented as deviating from courtesy towards any witness, either in the substance or in the manner of the examination. Persons who hastily read the evidence, have mistaken for a sifting cross-examination of Dr. Wood, what is in reality only a repetition of questions, made (and acknowledged by himself at the time to be so) for the purpose of enabling him to give a more explicit contradiction to reports, very prevalent, respecting certain fellowships of his college. But I appeal to the members of the Committee who assisted at the examination, if any are present, whether he or any other witness had a right to complain of my conduct in the chair. I have accidentally heard of ample testimony having been borne to my demeanour, by a most respectable gentleman, wholly unknown to me, and in politics constantly opposed to me.* A friend of his from the north, having seen the falsehoods so boldly and so industriously propagated respecting me, and being, from his knowledge of my habits, somewhat surprised at finding how violent and

* Mr. Sheldon.

rude an inquisitor I had all of a sudden become, not unnaturally asked Mr. Sheldon if it really was so: but he has been much relieved by finding that gentleman express his great astonishment at the imputation, from having been himself present at the investigation, as a member. But I must protest against this novel method of imputing all that is done in the Committee, and recorded in its minutes, to the chairman. The Right Honourable gentleman has acutely and learnedly classified the members of it into various divisions or squads as he terms them. The majority of those who gave their attendance were not my political friends, but his own. Some were of a third party—some had leanings—some were of no party at all. As soon as a case was entered upon, or a witness called, the members of both sides, or rather of all the five sides, plied him with questions, some more, some less, regular and judicious. It was impossible to prevent or control all their observations. Am I, then, to be answerable for the sins, not only of myself and my friends, but of all the rest? Am I chargeable with the irregularities of all the squads—of whatever might be done by this motley committee, this pentagonal body, in the course of a long and animated proceeding?

But to return to the specific accusations. The Right Honourable gentleman was pleased with even unusual solemnity to attack—I ought perhaps rather to say, reprimand—us for what he termed the disregarding the obligations of the Winchester oath, compelling the Fellows to produce the statutes which they had sworn to conceal, and then publishing these arcana to the world. The Right Honourable gentleman should have learnt the case better before he set to getting up his lecture. If it did not suit him to attend the Committee, he should have informed himself, at least, of the elements, the mere *a*, *b*, *c*, of the controversy, before he ventured to take a part in it—a part, too, evidently intended to be so very prominent. The Winchester

statutes were never published at all—never—and purposely, because, on account of the oath, it might be deemed objectionable to publish them, or disclose more of their contents than was absolutely necessary for the investigation. The Right Honourable gentleman was thinking of the Eton statutes; but then there was no oath at all pleaded in the Eton case—and, indeed, none existed to plead. This might be enough to show the candour, or let it only be called the accuracy, of the Right Honourable gentleman, and his qualification to join in this discussion with so authoritative an air and tone. It might be a caution to people before they begin lecturing, to learn a little. But the whole accusation about the Winchester oath was equally founded in a gross ignorance of what has really passed, and an entire disregard of the established law of Parliament. Surely the Right Honourable gentleman has never taken the trouble to read the oath which he gravely charges the Committee with forcing the Fellows to violate. Had it contained no saving clause, still the Committee had an unquestionable right to disregard it, and compel those who had taken it to produce their statutes. No such oath is in law binding, or can stop the course of justice, in the lowest tribunal known in this country. Far less can it be obligatory on persons under examination before the House of Commons. But it happens that there is an exception in the oath, and a pretty large one; and one too, which has been very liberally acted upon by those who took it. They swore not to reveal—"nisi quâdem necessitate cogente, vel utilitate suadente,"—and the oath adds, that they were themselves to be the judges of both the necessity and the utility. How have they acted upon this? It appears from their own statements to the Committee, that as often as any end whatever was to be served for the College, they produced their statutes with all freedom, and made them as public as the occasion required. They exhibited them in all

suits in Courts of Law—they laid them before Courts of Equity—they gave them in the whole, or by piecemeal, to their solicitors and counsel, in discussions before the Visitor. When it was deemed expedient for their interests to have reports of those proceedings published in pamphlets, they allowed large extracts of those most secret and mysterious documents to be printed; and Mr. Williams, the barrister, one of their counsel, and one of their own body, who has taken the oath himself, told the Committee that he had, in publishing a report of one case, inserted part of the statutes in it, and not only those sections which had been used at the trial, but other passages, which he printed in a note, for the further illustration of the Winton argument. I have no manner of doubt, that this use of the statutes by my learned friend, comes strictly within the letter of the salvo in the oath; because I am sure the pamphlet, if not required by some necessity, was very likely to prove of great utility. But then, what could be more absurd than to set up such an oath, so much limited by exceptions and so little observed in practice, as a bar to the jurisdiction of the House of Commons? What more ridiculous, than to fancy that it prohibited the production of those statutes, even according to the strict letter, in the course of their lawful investigation! They have not been called for rashly, or peremptorily, or without the fullest deliberation, and the most careful examination of the scruples which might arise from the oath. All that could be urged by those who had taken it, was fully heard from themselves; and after maturely weighing it all, the Committee came to the only decision which they could give without at once abandoning the whole rights of the Commons, and overturning everything like the law and the privileges of Parliament. But in the exercise of their discretion, though the right was undeniable, they have limited the enforcement of it by the exigency of the

occasion, and have refrained from printing the statutes in their minutes. With respect to the Eton statutes, the case was different. There no oath interfered, and they were ordered to be printed, as well as those of Trinity and St. John's, that in case there be in practice any deviations from them, it may be observed, whether they are all such as change of circumstances warrants, or even makes an improvement. But the Right Honourable gentleman finds out, or somebody tells him, of a marginal note in the Museum copy of the Eton book, and which, it seems, has been printed with the rest of the manuscript. Of the existence of that note, I positively assert, I was unaware till I heard it read now. It had entirely escaped me; and I have no hesitation in saying, that I disapprove of its having been printed. But it was reserved for the peculiar spirit and temper in which this controversy has been carried on, to pick out a little typographical oversight in a volume of many hundred pages, and charge it upon the chairman of a Committee, who must indeed be endued with omniscience, as well as excessive industry, to prevent all such accidents from happening.

I beg pardon of the House for all the particulars into which I am forced to enter, but I rather apologize for the Right Honourable gentleman than for myself; I stand far less in need of such indulgence. A very serious and alarming charge followed next—that of prolonging the operations of the Committee after the dissolution; continuing, as it were, the noxious existence of that hated monster, after the period of its fate had arrived. It seems that, marvellous to relate, at the distance of one whole month from the end of the session, a circular is found, signed by a clerk of the House, who had been clerk to the Committee, and, yet more prodigious to tell, sent free through the post office. Now, I give up the whole defence, if this, which is attacked as a dangerous

innovation, is not found to be the uniform practice of every Committee, in every session, and absolutely necessary to the expediting of the public business;—if what the House is warned against as alarming and strange, and leading no one can say to what consequences, has not been constantly and most notoriously done, from all time down to the present day. Let but one session of Parliament be shown, in which any such inquiries were going on to the end of the sitting, and in which the prorogation prevented the work of digesting and correcting from proceeding, and I am willing to stand convicted of having introduced a new practice, and been the author of a great improvement in the method of carrying on such inquiries. But, in fact, the question will not admit of any doubt. Every one knows that, long after the end of each session, the reports and other papers of that session are printed or circulated, and many of them finished. And there is not in this respect the smallest difference between the end of a Parliament and of a session, or between one kind of work upon the papers and another. But for such a convenient irregularity, the Parliamentary business would be suddenly stopped by each prorogation; nothing would be done till next year; and then a mass of matter would be poured at once upon the House, the officers of the House, and the public, which never, by possibility, could be turned to any account, if it ever could be even presented, beside the necessary suspension of the new business, in order to finish the digesting of the old. The Right Honourable gentleman, if he had been at all acquainted with the practice of Parliament in the best times, and under the sanction of the highest authorities, could never have brought forward such a charge; and if he was so miserably ill-informed on these matters, and gathered his notions of Parliamentary usage from persons who knew, who could know, nothing whatever about it, what business had he, upon no better foundation than his own ignorance and

theirs, to rear up the presumption with which he brought forward his accusations? Take the plan of the Right Honourable gentleman and his instructions —adopt his new law of Parliament—let the close of each session not only stop short every investigation in which the committees are engaged, but stay all steps toward preparing for the use of the House the results already obtained from inquiry—and the necessary consequence must be, that not a tittle of the matter required for deliberation can be arranged or distributed, until, at length, the next session sees the House overwhelmed with such a mass of papers as must defy all reading, arranging, or understanding. But I had well nigh forgotten the dreadful circumstance, the ground of so much amazement and protestation, that the circular of July was despatched in a cover signed by Mr. Freeling, and went free from postage; for this extraordinary natural appearance, the Right Honourable gentleman can by no means account. I wonder, in my turn, that a theory for explaining it should not have presented itself to a person who deems so highly of his own learning. It might have struck him that there was no other means of sending letters post free; and that the post office having received instructions to forward the other circulars under covers signed by Mr. Freeling, the same covers were naturally enough used upon this occasion also.

But I am fated, it seems, to answer for another circular letter, written still longer after the dissolution, even in the present session, to the parochial clergy; and that letter is represented by the Right Honourable gentleman as tending to deceive those to whom it is addressed, into a belief that the Education Committee is still in being, and that the application is made under its authority. Unfortunately for the Right Honourable gentleman, the letter in question was only resolved upon after the utmost deliberation, and was then worded with very great care, to avoid

all possibility of misconstruction. I was well aware, when that letter was sent, whatever I might have been before, of the endless variety of malignant insinuations, and foul and wicked misrepresentation to which any man exposed himself, who acted for the benefit of the poor, with disinterested motives, and who, without fear of obloquy, exposed the hidden mysteries of abuse. I slowly and reluctantly determined upon issuing that circular. I had before been obliged, in my official capacity, to give much trouble to the clergy, I mean the resident, parish, working clergy, the honest and pious men who, for a very moderate recompense, discharge most important and laborious duties, to their own immortal honour, and the unspeakable benefit of their fellow-creatures. Their conduct throughout the whole of this inquiry has been far, very far above my praise; yet still I entreat them to accept so humble a tribute to their great merits, for their honest zeal, their unwearied benevolence, their pious care of the best interests of their flocks, shown forth in their universal anxiety to promote the great object of the Committee—the Education of all the Poor. I was most unwilling to press harder than was absolutely necessary upon such willing fellow-labourers, and therefore delayed sending the circular in question, which has for its object to obtain the same information as to unendowed schools, that the former letter had procured respecting endowments. The first letter had been despatched at a time when the Bill was expected to pass with a clause requiring the Commissioners to examine the state of education generally, as well as the abuse of charities; it was therefore principally calculated to obtain such information respecting endowments, as might serve to direct the inquiries of the board. When that clause was, with others, struck out, the returns became the only source from whence the general information respecting the state of public education could be ob-

tained. It was therefore most desirable to supply the defects in these, as far as regarded the unendowed schools. Yet, as a considerable proportion of the returns to the original circular has, through the praiseworthy zeal of their reverend authors, afforded the information required, I for a considerable time indulged a hope, that a sufficient number might be found upon which to form an estimate of the average for the whole country, and thus to preclude the necessity which I so greatly desired to avoid, of giving the clergy further trouble. With this view, and beside long and repeated consideration of the details by myself, I consulted professional gentlemen skilled in calculation; and it was not until it appeared impossible to trust the averages obtained from the full returns, that I reluctantly had recourse to the circular in question. There are living witnesses, perhaps not very far distant, to the repugnance which I felt in taking this step—not indeed through any apprehension of incurring the Right Honourable gentleman's displeasure (which never once crossed my mind, and if it had, would have left a very slight impression), but from tenderness towards those most excellent persons upon whom it was to impose a new task. When I resolved upon issuing it, I weighed the terms of it with extreme care, to guard against the very imputation flung out by the Right Honourable gentleman, of usurping an authority with which I was no longer vested; not that I felt this at all needful, were I to be judged only by those who know me; not that I should, before the commencement of this controversy, have thought such a precaution necessary, even to prevent misconception in the world at large; for I had yet to learn the risks which a man's character runs, for merely employing himself in the disinterested work of befriending the poor; but the circular was written when I was made aware of this danger; and I studied (in vain as it now seems) to guard against misrepre-

sentations, which I foresaw would be attempted, to describe all I did as encroachment and usurpation. In the simplicity of my heart, I imagined I had succeeded. This night has shown me how meanly I estimated the inventive subtlety, and the unconquerable pertinacity, of polemical malice. For they in whose hands the Right Honourable gentleman is an instrument of aggression (perhaps more accommodating than powerful), have discovered that the language of the letter was that of assumed official authority. It alluded to inquiries going on with respect to public education; and were not such inquiries in progress when I had laid Reports respecting them on the table, given notice of a measure to be brought forward, and informed the House that the Digest of the returns was preparing, and would be printed from time to time? But could the most defective understanding of the person least acquainted with Parliamentary proceedings, suppose that a letter was officially written by a chairman of a committee, in which the writer begins with saying that he should consider it as a favour if the person addressed could conveniently give him certain information, and concludes with begging him to date his answer, if he should be kind enough to oblige him with one? Is that the style of official letters—of requisitions and precepts from chairmen of committees? The first circular from myself as chairman had been very differently worded. "I have to require that you will return answers to the following queries."—And the difference in style was perceivable by every person who received the second letter; for every one had previously received the first, and the second expressly referred to it. Indeed, with the inconsistency which has marked every step of the adversaries of education, this first circular has also been attacked—it was said to be uncourteous and peremptory—and there was a doubt expressed of the Committee's authority to issue it. As for the style, it

was less peremptory than the established form of an order for the production of a paper, or attendance of a witness. That form begins, "It is ordered that A. B." &c. The circular began, "I have to require," &c.—As to the right of demanding answers—any doubt of it was bottomed in the grossest ignorance, and the most childish inattention to the shape of the proceeding. The Committee had a right by their instructions to send for all persons, papers, and records. They might have summoned the clergy to Westminster to be examined. Was it not a relaxation of this right, to allow them at their own homes to answer the circular queries?—I do not impute all this wretched blundering to the Right Honourable gentleman. His objections could not have originated within these walls. They must have been gathered from some coarse manufactory abroad. But he should have been far above suffering any designing or bigoted persons to get possession of him, and persuade him in so great a matter. This good work, I trust, will not be impeded by what has passed to-day, though I doubt not there are some persons out of doors who indulge hopes that it may. I shall, for my part, persevere. I am beset and attacked at every step, as if I was pursuing some object of personal advantage or aggrandizement, and as if the enemies of the cause supposed that a person, giving up his days and nights to such a work, must needs have some bad purpose to serve. But I shall leave it to time and the contempt of the community, to cure men of such absurd prejudices, which I assure you give me no sort of angry feeling, and only move my pity.

The last charge preferred by the Right Honourable gentleman is of a singular description. It is not for anything which I have either done or left undone in the Committee, nor indeed for any substantive part of my conduct at all, either in or out of Parliament; but it seems I have, in my letter to Sir S. Romilly, taken

credit for not doing something, which if I had done, I would, in the Right Honourable gentleman's opinion, have been guilty of a breach of duty as chairman. Perhaps I ought to be sufficiently well pleased to find the gentleman and his instigators reduced to such flimsy accusations as this, which, if well founded, is really no very mighty matter. But it happens to be, like all the rest, quite groundless. I do not exactly recollect the words used by me; I have not of late been so conversant with my own writings, as the Right Honourable gentleman seems to be; who, I am sorry to see, has thrown away much valuable time upon what I fear he may find an unprofitable study, at the best, but the more especially, if he did not comprehend what he read. I shall, however, take the quotation as given by him—and to what does it amount? Only that, in order to prove how little truth there was in the charge so often reiterated, from the first day of these discussions to the present, of my having been actuated by party views in the Committee, I cited the known fact of my having refused my partizans in the North access to the evidence respecting St. Bees' school? But how could I have granted this access, asks the Right Honourable gentleman, without betraying my trust as chairman? Why, in various ways. What was there to prevent me from lending my own notes? What to keep me from communicating any private copies I might have of the printed and unpublished evidence? Then, who ever before questioned the right of a chairman to regulate the manner and time of printing and circulating the minutes of a Committee? I have known recent instances of notes being used for private purposes by warm friends of the Right Honourable gentleman, although the chairman of the Committee had joined with the Speaker in impounding them to prevent publication. They have been published to the injury of every individual, for whose protection the original

minutes were impounded. Of such conduct, indeed, I greatly disapprove. For me to have communicated my notes, or to have allowed the publication of the Report some weeks sooner, would clearly have been no such impropriety; yet still I deem that it would have been blameable, because it would have been perverting to party purposes an inquiry that should be kept free from all such connexion. And therefore it was, that I abstained from it; nay, interposed to prevent it. I did so, because I deemed that it would have been improper; and the Right Honourable gentleman sagaciously answers, "Had you done so, it would have been an impropriety." There I leave him and his ingenious and subtle instructors.

In conclusion, I must apologize for the time which I have been obliged to occupy in the defence of myself and my colleagues. As far as regards our cause, we have much reason to complain of being taken unawares; but the House, too, has been a sufferer, in being compelled to hear a statement not only inadequate to the greatness of the occasion, but necessarily rendered prolix by the suddenness of the demand which has imperiously, though most unexpectedly, called it forth. It is a satisfaction to me, that, how defective soever in other respects, I at least believe it to have been full, and to have honestly met each individual part of the accusation. In casting my eye back upon the large space over which I have travelled, I can descry nothing that I have left untouched. I rather fear I may be blamed for stopping to take notice of some things which merited none. But I deem this the safer side on which to err, as being made aware by experience of the shifts and devices to which malignity has recourse. If I have passed anything—if it should be found, on further reflection, that there is a single point overlooked by me—I beg to be instantly informed of it, and I pledge myself to take the earliest opportunity which the forms or the kind indulgence of

the House can afford, of supplying the omission. I have not shrunk from the fullest inquiry, in circumstances which gave me a very fair ground for demanding some delay; and I still court the most unsparing investigation of every part of my conduct in the chair of the Committee, and of every single incident that has happened in the course of our whole proceedings.*

* The preservation of this speech is owing to an accident. A gentleman at the Bar, who had taken much interest in the progress of the Bill, having the intention of editing Duke's work on *Charitable Uses*, happened to be in the gallery, and took a very full note of the debate; from which and some further notes kept by Mr. Brougham, and from some others which have since been obtained, the speech was corrected for Hansard's *Debates*, then edited by Mr. Wright; and from that it is now printed, with only the change of the person and tense, and one or two verbal alterations, founded on notes made at the time. The newspapers, for some days before this debate took place, had refrained from reporting Mr. Brougham's speeches, in consequence, as it is said, of some offence given by him to a reporter, in the form of words used in referring to him; and by no means from the course taken by Mr. Brougham, for it appears from the *Debates* (Hansard, vol. xl., 1174), that he took a very decided part in the gentleman's favour, when the question of his committal to Newgate was discussed, and that he strongly and successfully opposed that proceeding. He was a person of great merit and accomplishments, as afterwards appeared. It is seen in the *Debates*, that Mr. Sheldon, Mr. Wilberforce, Mr. J. Smith, and other members of the Education Committee, confirmed Mr. Brougham's statements of fact. They flocked to the House on the news reaching them that the wholly unexpected attack had been made upon the Committee and its chairman, the more unexpected because he had just resumed his attendance on the House after being confined by a very dangerous illness.

SPEECH

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HOUSE OF COMMONS—JUNE 26, 1823.

I HAVE never, Sir, risen to address this House under a feeling of greater anxiety than upon the present occasion. When I recollect the vast ability on both sides of the House, which has, at different times, been employed upon subjects intimately connected with the prayer of this petition,* and the multitude of persons in Ireland who are earnestly looking to the result of the discussion; when I consider even the strength of the case committed to my charge; and more than all, when I survey the present state of the sister kingdom —it may well be supposed that I feel somewhat overawed at contemplating the task which I have deemed it my duty to undertake. The petitioners themselves have rendered the performance of it incalculably more difficult; for, whereas, when the Catholic question was discussed, the affairs of Ireland, and the intolerant and injudicious scheme of policy long pursued there, had been constant matters of debate, and had been handled by the ablest men, in every different form in which they could be shaped by talents and ingenuity; and whereas the great desideratum now is, to supply an answer to the question, "What is the practical effect of that

* Mr. Brougham had, on a former day, presented the Petition of the Roman Catholics of Ireland, complaining of Unequal Administration of the Law, and he this night began his Speech by having it entered as read.

system?"—to solve this difficulty, "How do the penal laws operate in Ireland, not merely upon individuals of rank excluded from the higher offices of the state, but upon all classes from the loftiest to the lowest?"—and whereas the petitioners, in the very title of their representation of grievance, complained of "inequality in the administration of the law," yet they, who of all others, are able to give the best information—to afford the clearest solution—to stop the mouth of such as maintain that there is no practical evil, by showing that justice is not equally administered, and by giving facts in detail—the petitioners, intimately acquainted with the merits of their own case, deeply feeling the grievances under which they labour, and having daily and hourly experience of the consequences of the present system, have nevertheless omitted all statement of particulars, and have confined themselves merely to general declarations. I make this a ground of complaint, certainly not from myself against the petitioners, but from myself on their behalf, because they thus send me into court, as it were briefless, where I am required to answer all objections, without being furnished by them with the means of answering any. I am thus reduced to one of two alternatives—either I must undertake the hopeless task of again going over the ground repeatedly trodden by the greatest men; or I must attempt, what is perhaps yet more hopeless, to supply the defects in the case that has been intrusted to my hands.

I take the cause of the oversight to be this—the petitioners do not give the House credit for knowing so little of the present state of Ireland; they assume that the House knows what it does not know—that it is aware of facts which might be proved at the bar, to show that justice is not equally administered to all classes in Ireland. When parties enter a court of justice in this country (for in this country they happily *are* courts of justice), rich and poor are treated with the same impartiality. The law, thank God, is administered

equally to both. But the petitioners, feeling, and well knowing the existence of the melancholy facts on which they rely, no more thought of introducing them into their statement, than any petitioner in this kingdom would take upon himself to explain and expound the purity of our own judicial system. A petitioner in this country would never dream of telling the House that juries are not packed—that judges are decorous, and never sacrifice the rights of parties to a ribald joke—that Chancellors hold even the balance of justice between Protestants and Catholics, Episcopalians and Dissenters—that here the keeper of the Great Seal will never think of striking a gentleman out of the commission of the peace, because he is a sectary, as has been done in Ireland—the keeper of the Great Seal there, admitting that in so doing he had been guilty of an act of gross injustice, and yet eight years afterwards repeating it. In England, in administering the law to a creditor against his debtor, we should never think of inquiring, whether he is or is not able to bribe an under-sheriff. In England the King's writ runs into all parts of every county. Here there is no detached corner, no land of Goshen, where some little tyrant dares to raise his flag in defiance to the orders of his liege lord the King. Our courts are open to the poorest suppliant; and however humble or unprotected, he has an equal chance with his titled adversary; nay, though he were even addicted to sectarian opinions, instead of paying his devotions in the cathedral. The reverse of all this obtains in Ireland; and it is so well known there, that the Irish who daily feel the evil never think of describing its details.

The petitioners are in themselves a most important class, and they represent many thousands; for the petition would have been signed by tens of thousands, had a few more days been allowed. The signatures already obtained are from persons of commanding influence, who speak the sense of six millions of his

Majesty's subjects, who are strongly persuaded, that the law in Ireland is not the same as it is in England —that he would be guilty, not of extravagant flattery merely, but of intolerable mockery, of gross and ridiculous irony, who should attempt to compare the two. They feel that the law is not equally administered to all classes in point of rank; and that it is still more unequal, and still less fair and impartial, in the manner in which it is dealt out among the adherents of conflicting religious sects. From the fulness of the evidence they possess, because it is the evidence of their own senses, they have omitted the insertion of all details, giving the House credit for knowing that of which it is ignorant. The consequence is, that the petitioners, and I am sorry to say the whole people of Ireland, who really are now at your bar, have suppressed the most important facts. In the intensity of their sufferings, they have lost, as it were, the articulate language of remonstrance, and have had recourse rather to exclamations of despair, and those exclamations have been followed, in some instances, by acts of open aggression; for exclamations of despair are the forerunners of such acts, and often at too short a distance. Forerunners I perhaps ought not to say; for while I am speaking, such outrages are going on, and it is impossible for any man to be so little acquainted with these transactions, as not to be aware that I am guilty of anything but exaggeration, when I take upon myself to assert that, for the last thirty years, Ireland has never been in a more alarming state. Of what, in the first instance, do the Roman Catholic petitioners complain? They say, that the laws are in themselves unequal, and that the inequality is aggravated by the incidental circumstance, not perhaps necessarily, but naturally, connected with the inequality of the laws, of their still more grossly partial administration. In my view, a mere representation of this kind, by a large body of the King's subjects, makes a sufficient *prima facie*

case. If they demand inquiry and call for redress, that alone ought to be enough to induce Parliament to lend them a favourable ear. But the House is not left to this, even in the absence of any detail on the part of the petitioners. It is only needful to consider the state of that law which, though not necessarily, yet naturally leads to an unequal administration, in order to persuade any one that as long as men retain their natures, the law which creates an inequality in religious sects cannot be equally administered. The law at present separates the King's subjects into two classes; it severs those who ought to be as brothers under the same paternal government, and makes them foes. The law of England views the subjects of the realm as brothers, and the King as their common parent; but the law of Ireland holds a language widely different. It marshals man against man, faction against faction, sect against sect. It employs religious tenets on the one hand to foment (if it were not to profane the word) religious animosities on the other. The law of England esteems all men equal. It is sufficient to be born within the King's allegiance, to be entitled to all the rights the loftiest subject of the land enjoys. None are disqualified by it; and the only distinction is between natural born subjects and aliens. Such, indeed, was the liberality of our system in times which we call barbarous, but from which, in these enlightened days, it might be well to take a hint, that if a man were even an alien born, he was not deprived of the protection of the law. In Ireland, however, the law holds a directly opposite doctrine. The sect to which a man belongs—the cast of his religious opinions—the form in which he worships his Creator—are the grounds on which the law separates him from his fellows, and condemns him to endure a system of the most cruel injustice. Not only this, but on the very same grounds and with, if possible, less right—with, if possible, more impolicy—and with, if possible, greater cruelty,—it leagues him

against all who hold opposite notions, as essentially and as implacably, as his enemies are combined against him.

I will admit that great and salutary alterations have in modern times taken place. Since the year 1778, but more especially since 1793, important improvements in the code have been effected. The odious distinctions have been, in a great degree, mitigated. What remains is nothing in comparison with what has been taken away. Enough, indeed, is left to mark an absurd and ridiculous difference—absurd and ridiculous when viewed by the eye of the philosopher, but melancholy and degrading when contemplated with the eye of the politician. Enough is left for offence and insult, while nothing is accomplished for happiness and security. The Right Honourable the Secretary for Foreign Affairs, who so ably, on a former occasion, and before he accepted office, supported the cause of the Roman Catholics, has well referred to the mark which the fetters, though removed, have left behind them, and to the system of extirpation which a ferocious tyrant of a former age was about to carry into effect. That system would have had, at least, more consistency in it than the one which this country has pursued towards Ireland. Our plan has had no sense or consistency. True it is that the chains have been removed; but the degradation and the insult remain, as long as a link is left to remind the sufferer of his miserable bondage. But, if the advice of the Right Honourable gentleman had been followed, and if the last link had been knocked off, still I should say, that as long as the gall of the fetter, the mark it inflicted, continues visible, justice cannot be impartially administered; because one class is thereby improperly stigmatized; and the eyes of judges, witnesses, and jurors will still detect the mark, and as long as human infirmity exists, impartial justice cannot be done. Why, then, has the wound, aggravated by the impatience of the bondman, been allowed

to rankle, when it is in the power of the legislature in one moment to heal it for ever? It is powerless as a security, and infinitely prejudicial as a distinction; and as long as that hateful, that hideous distinction is preserved, so long will Ireland continue the scene of discontent and of aggression. One principle at this moment through all Ireland influences judges, jurors, magistrates, and almost every witness—the English, the humane, the equitable principle, not invented in a dark age, nor imported from a barbarous country—not even adopted in this our day of imitative admiration, from the Holy Alliance, and supported by their legions of Cossacks, but invented in England, and adopted by a body calling itself the English Parliament. It originated in the enlightened policy of this enlightened country, in this enlightened age. It remained for the nineteenth century to see the doctrine fully established that the law in Ireland is a respecter of persons——that it prefers one sect to another—that it will not allow men to worship God according to their consciences, or if they do, they must do it at the signal peril of forfeiting all claim to its protection.

The first ground of my motion, then, is, that this petition comes full of urgent complaint, from those who both actually and virtually represent the whole body of the Roman Catholics. My second ground is, that they have just reason to complain, and that as long as the odious distinction I have described remains, justice cannot, in the nature of things and of man, be equally distributed. But I think that I shall leave the case incomplete, if I do not go somewhat into details, though I will not trouble the House with more than is absolutely necessary, intending rather to give specimens than to enter into any elaborate and systematic examination of the subject, to which I profess myself incompetent, for the reason I have assigned. It is fit, however, to mention a few facts, which I shall be prepared to prove at the bar, should the House adopt the proposi-

tion with which I intend to conclude. In all I shall now offer, the House is to consider that I am, in truth, tendering evidence; and I shall scrupulously abstain from everything which cannot, to the best of my belief, be substantiated by legal testimony, either of witnesses or of records.

When the subject is so extensive, it is of little importance where I begin; but I will commence with one of the most material parts of it—the state of the magistracy in Ireland, by whose local jurisdiction justice should be brought home, as it were to every man's door. It is in vain to deny, that in England abuses have, from time to time, crept into this branch of the administration of the law; but various salutary acts have been passed, on the one hand, to protect magistrates acting *bona fide*, and on the other, to guard the King's subjects from malversation and misuse of a power sometimes purely discretionary. It is by no means a matter of frequent complaint in this country, that improper individuals are selected for the magistracy. With us, a rule has been laid down by the Keepers of the Great Seal (indeed I have seen it stated under the hand of the present Lord Chancellor), that they never will strike a person out of the Commission, whatever private charges may be brought against him, unless he has been brought to trial, and convicted by the verdict of a jury. I have known an instance of a magistrate several times accused of perjury, with complaints against him by a vast majority of his fellows in the Commission, whom, nevertheless, the Lord Chancellor peremptorily refused to oust, because he had been tried and acquitted, although every one who has seen how hard it is to establish such a charge must be aware that an acquittal in nowise proves the party to deserve a place upon the Bench of Justice. I recollect another case in Durham, about ten years ago, where the bishop, as *custos rotulorum*, was obliged to reinstate a certain magistrate, because, though accused, he had

not been brought to trial. I do not mean that this rule is applicable to Ireland. A much greater latitude of discretion is required there. Not only the present, but former Chancellors, Lord Redesdale and the late Mr. Ponsonby, agreed upon this point. Upon that, indeed, I found my first observation; because, if a principle be established in England, the propriety of which no man disputes, is it not very extraordinary that by as common a consent it is allowed that this principle cannot be extended to Ireland? This fact is worth a thousand matters of mere detail. As to particular facts, a man may be misled or mistaken; but here is something that cannot deceive. A principle acted upon invariably on one side of the water is met by a diametrically opposite principle on the other; and the difference can only arise from the fact, that the stuff of which justice is composed in England is of much happier material, and more finely tempered than in Ireland. But I am not without particular facts and authorities; and I will just call the attention of the House to a few instances out of a great variety.

The late Lord Gosford, governor of the county of Armagh, on a memorable occasion, had said, that "justice had been suffered to disappear, and the supineness of the magistracy to become the common topic of conversation in every corner of the kingdom." Before I proceed farther, I will just mention that the word "supineness" will often occur in what I read, and that it is to be understood as a delicate mode of expressing a disinclination to suppress violence; this violence being, in ninety-nine cases out of a hundred, the Orange violence against the Catholics. The late Mr. Grattan was certainly a party man. In the highest, truest, and most honourable sense, he performed what he justly considered the important duties of party; but of all members on the opposition side of the House, his authority is the most unexceptionable; because he undeviatingly observed the strictest accuracy

in his details, and was little liable to the imputation of being carried away by enthusiasm. He was a man of singular candour and of great moderation; and from his entrance into public life to the close of his illustrious career, gave signal proofs of his moderation, of his extreme forbearance, nay, of his gentleness and his calmness even in the tempests of factious times. He observed, on one occasion, that the government "trifled with the northern weaver, when it sent him to a grand jury;" and he added, that "the supineness and partiality of the magistracy had been the occasion of his sufferings and his losses." Mr. Ponsonby, who had filled the office of Lord Chancellor in Ireland, and was therefore so competent to judge on the question, looking back to the time when he held the Great Seal, said with becoming reserve, that "the magistrates too often had been anything but what they ought to have been." Mr. Justice Day, in an address to the grand jury, charged them with "negligence, corruption, and partiality;" and the late Lord Kingston complained of some men as "a disgrace to the magistracy, deserving rather to be hanged than to be included in the commission." The charge of Judge Fletcher, in the year 1814, is well known. It is an able and elaborate production, and next to delivering no political charge at all, the greatest merit is, to deliver one so sound in its doctrines, that these are liable to no exception. Talking of the Orange societies, he says, that "they poison the very fountains of justice," and that "even some magistrates, under their influence, have, in too many instances, violated their duty and their oaths." Thence he proceeds to observe, that such associations are most pernicious, whether consisting of Orange or Ribbonmen, adding, that under their influence Petty Juries have declined to do their duty. It is sufficient, he says, to see such a man displaying such a colour, to produce an utter disbelief of his testimony; and when another has stood with his hand held up at the bar, the display

of his party badge has mitigated the murder into manslaughter. These sentiments, coming from a man discharging judicial duties, are of the highest importance. Thence he proceeds to condemn all those associations bound together by unlawful oaths, remarking, "With these Orange associations I connect all commemorations and processions producing embittering recollections and inflicting wounds upon the feelings of others. I do emphatically state it as my settled opinion, that until those associations are put down, and the arms taken from their hands, in vain will the north of Ireland expect tranquillity or peace." The learned Judge goes on to censure the unlawful oaths (such as have been treated with so much respect in this House on a recent occasion) taken by the members of the associations; and of the magistrates, he says, that "some were over zealous, and some, on the contrary, were supine;" and he complains that "jobbers of absentees" and "traders in false loyalty," among other unfit persons, are too often put into the commission. Eight years afterwards, the same learned Judge does not appear to have found any material amendment in the magistracy; and in one of his last Charges he has asserted, that the conduct of the magistracy "might ultimately drive thousands to rebellion."

A great deal has been said of late respecting a reform in the Commission of the Peace of Ireland, and twelve counties have undergone the operation. If the scheme had been executed with the same honest and zealous intention for improvement with which it was undertaken, much good might have been the result; but if I have been rightly informed, little or no advantage has been the consequence, the measure having been treated as one rather of form than of substance. I have been told (and to this point I can produce evidence at the bar) that in six counties, one hundred and fifty-two magistrates have been displaced. The number looks as if a great, sweeping, and radical change had

been effected; but, in truth, the vast majority of the one hundred and fifty-two consist of absentees, English and Irish militia officers, and others incapacitated from age and sickness, and not a few by death. How many does the House think, out of the whole one hundred and fifty-two have been really removed for reasons such as those to which the change was originally intended to apply? Only fourteen. Twenty-five have been removed in one county, and in another, fifteen; all of whom were incapacitated for the various causes which I have named.—[Mr. Goulburn asked across the table to what county Mr. Brougham referred.]—The county of Monaghan; and since the question has been put, I will just add, that among those removed for being sick, or dead, or absent, or an English militia officer, or an Irish militia officer, was not Sir Harcourt Lees! He is continued in the commission. In the county and city of Dublin, Major Sirr has not been removed; and I think there is just ground to complain that he is still in the commission. It is an insult to the people of Ireland, over whom he exercised all the nameless tyrannies of the last rebellion. Even on the rule of the Lord Chancellor of England, his name ought to be instantly struck out. Nevertheless, he is allowed to be at the head of the police of Dublin; and he has told the House at the bar, that he there daily and nightly acts as one of the magistrates. Yet, in the city of Dublin itself, a jury of his country has given a verdict against him, for one of the grossest and foulest oppressions—so gross and so foul that the oldest practitioners of our courts can find no parallel to it. The charge included in it the most base and perfidious fraud; for to eke out the measure of his injustice, and to overwhelm his victim, it was proved at the trial, that an order had been fabricated, the fabrication of which was vouched by his friend, his accomplice, his tool; the very man, in short, who had perpetrated the act of combined fraud and oppression. It was to this man that

the victim had been delivered—to Major Sandys; and when Mr. Curran exclaimed, "There sits Major Sandys; if my witnesses deceive you, let Major Sirr put his friend and associate in cruelty in the box to deny it, if he can." Major Sirr dared not do it; and all who had ears to hear, or eyes to see, were convinced, with the jury, that Major Sirr stood self-convicted. Still he has been kept in his office—still he is employed; and two-and-twenty years afterwards, when he has grown gray in the service, he has been heard to declare at the bar of this House, "I am still on the bench of justice!" Look at the effect of these arrangements in the commitments in Ireland,—commitments made and signed by such magistrates as I have described! Melancholy to relate, there are more commitments in Ireland, taking the average of the last four years, than in England and Wales together. But how does the average stand, as to the number of convictions? Why, in those countries where law and justice are equally administered, in England and Wales, there were 43,000 commitments and 29,000 convictions; but in Ireland, with a list of commitments exceeding 45,000 the number of convictions did not exceed 16,000.

To the recorded opinions of men of talent and experience, to facts in proof before the House, and furnishing an argument still more powerful in favour of the proposition which I am supporting, I will add the memorable declaration of Lord Redesdale in the House of Peers—a declaration which admits the utmost point I can contend for. What has Lord Redesdale, once the Lord High Chancellor of Ireland, said of the state of the administration of justice in that country? Lord Redesdale is not a man incautiously liberal of opinion. He is not likely to be the friend of hasty innovation. He cannot be suspected for the patron of unfounded complaints. He is rather one of those who will shut his eyes to any little irregularities in a system of which, in the main, he approves,—who probably will only speak out when

he finds abuses growing so enormous, that no man can continue to hold his peace under them, and so impudent, at the same time, that but from open denunciation, no termination of them can be expected. What, in spite of habit, or possible lurking prejudice, what is the opinion of Lord Redesdale, delivered only in July last, upon the state of the law in Ireland? His lordship has said this:—"I have been intimately connected with that ill-fated country for the last twenty years; and I am sorry to say, that there exists in it two sorts of justice—the one for the rich, the other for the poor—both equally ill-administered." And this was the effect of twenty years' experience upon the mind of the highest law officer (an Englishman too) in Ireland. This fact, standing by itself, is really worthy of deep consideration. I feel myself bound by it, indeed, in some measure, to proceed in this exposure. So, lest it should be supposed that Lord Redesdale has suffered from his long intimacy with Ireland, that from living there he has become infected with the spirit of complaint which pervades an ill-governed land, that communication has, as it were, tainted him with the disposition to remonstrate which, somehow or other, seems to have become epidemic among the whole people of Ireland; I will adduce a few examples in support of the noble and learned lord's declaration; and I will show, beyond the possibility of quibble, that the fact is distinctly as he has stated it.

In a country which enjoys the blessings of Trial by Jury, the manner in which juries are selected is a point of no slight importance. Now, excepting in the counties where the sheriffs are elected by the judges, in all corporations (these corporations being formed of men full of prejudice against the Catholics, open to Papists certainly by law, but shut against them with all the obstinacy of bigotry by practice), in all corporate towns, the sheriff who chooses the juries is himself the selected creature of that select and prejudiced body.

I am not about to enter into the late affair of the Sheriff of Dublin, but I will remind the House of an incident not relating to the present sheriff. A gentleman of the name of Dillon M'Namara, an attorney of many years' standing, was summoned upon the late inquiry; and, by way of discrediting his evidence, the following questions were put to him: "Did you not some years ago offer a bribe to a sub-sheriff of Dublin, if he would pack a jury to get off a client of yours, who was going to be tried for forgery?" Answer, "Yes, I did."—"Did he pack the jury?" Answer, "No; he could not, because the panel was up at the Castle."—Did not the sub-sheriff, it will be asked indignantly, reject the bribe? Did he not treat the offer as every sub-sheriff of every county in England would treat it, and get no thanks or credit for so treating it neither? Mr. M'Namara's answer as to that point made no mention of indignation; he simply stated the conduct of the sheriff. The sub-sheriff said, that if he wished to do the thing, "it was not in his power, because the panel was gone up to the Castle." But the thing, good as it was, became better still, as the questions went on. Question, "Did not the sub-sheriff reject the bribe?" Mr. M'Namara would not say he rejected it. Question, "Why did he not get the bribe?" Answer, "Because he did not do what I wanted him to do." This was not, I submit, exactly the kind of dialogue which would have taken place between an attorney and a sub-sheriff in England, upon the subject of packing a jury. I will not say that the man who would pack one jury to acquit a prisoner of felony, would as readily pack another to convict a prisoner of high treason, or of libel; but it would not be too much to suggest, that there is a point in money matters, to which, if the briber could manage to go, he might possibly find access to the ear of the sub-sheriff even although he should wish to secure a conviction for an offence of a graver character. Again, I will say nothing against

the sub-sheriff in question. That individual did not, it appeared, receive the bribe. But, there is the fact before the House, that such a bargain has been openly talked of. There stood a respectable solicitor at the bar of the House, from whose answers I am entitled to conclude, and in my conscience I do believe the fact to be so, that in the eyes of the persons who fill those relative situations in Ireland, the idea of an attorney's offering to bribe a sub-sheriff, or of a sub-sheriff being bribed by an attorney to pack a convenient jury, does not excite the surprise and horror which the bare mention of such a project could not fail to produce in England. But I will go farther upon the point, for it will allow me to go farther. Suppose it possible for such a proposition to be listened to in this country—suppose the possibility of such an offer being made, and even accepted—suppose there were attorneys in England who would put such arts in practice if they dared, with a view either to their own advantage, or to the safety of their clients; still, this possibility admitted leaves another impossibility behind,—no English attorney would ever talk of such a matter as it has been talked of by the gentleman lately examined at your bar. Such a man, although himself destitute of honest or honourable feelings, would be aware of the existence of those feelings in the hearts of those among whom he moved, and would have prudence enough to perceive that if his interests had been aided by the transaction, his character was not at all likely to be assisted by its publicity.

But this example, though it shows much, shows nothing like the whole. What will the House say to another practice, which I can prove by competent witnesses to exist in Dublin universally, of the sub-sheriff, whose duty it is to summon the juries, being in the habit of receiving from persons liable to serve, a fee of a guinea a-year, to refrain from calling on them to perform their duty? So that those men to whom it is convenient to pay a guinea a-year, do not serve on juries

at all; while those who cannot afford to pay the guinea, are compelled to do double duty, and those who wish to serve, are, by not paying the guinea, obliged to serve more frequently than comes to their turn. And this precious practice is not peculiar to Dublin: the provinces have the benefit of it as well as the capital. But the fee in country places certainly is less—being half-a-guinea a-year, not a guinea. So that the superior classes, who are best calculated to act as jurymen, give up, unless where they choose to act, the duty altogether; and it falls into the hands of persons who, whatever their merits, are probably less competent and enlightened, and, from their situations, more open to be influenced. To say the least of this practice, it is improper, indecent, and such as in England could not be tolerated for an hour.

But this point becomes insignificant when compared with that which I shall next bring forward. I have already said that the King's writ does not run through Ireland. Of this fact, that it does not reach equally to all classes of persons, I am ready to give evidence at the bar. I can show, that where a man has money for the purpose, he regularly bribes the sub-sheriff, as soon as that officer comes into place, and agrees to pay him all fees upon writs out against him for debt, as though such writs were formally served, provided the sheriff will give him timely notice of the issuing of such writs; no doubt, that he may be enabled at once to appear, and do justice to his creditor! To the poor man, of course, this indulgence does not extend—he is taken with all the rigour of the law, and full justice is executed upon him. I say that I can prove this at the bar; but, in fact, it has been proved within the last three days before a committee above stairs. I will read a note to the House of the evidence upon the subject; and I will venture to say, that but for the painful truths which it establishes, the document would be amusing. It was an attorney of respectability who

spoke, giving his evidence on the 23d of the present month. Question, "Do you regard the difficulty of obtaining money in Ireland after judgment, as one of the obstacles to English capital being carried to that country?" Answer, "Certainly I do; and it is one of the greatest evils we have to contend with." Question, "How does it arise?" Answer, "In the management of the office of sheriff; there is no such thing as executing a writ as you do it in England. I mean to confine this to executing it upon persons having the rank and means of gentlemen; and the city of Dublin and the county of Cork are exceptions to the rule. In other places, it is the habit, upon the appointment of a sub-sheriff, that he gets notice that he will be paid his fees upon writs delivered, if he gives notice to the party that the writ is about to issue." Question, "Does this practice prevail generally?" Answer, "I understand it to prevail everywhere, except in Cork county and Dublin city; but I daresay there are places even in Cork, where an arrangement might be made with the sheriff." Question, "Is the Committee to understand, that a different practice prevails with respect to poor debtors?" Answer, "I suppose that the sheriff, not being paid for any favour to them, does not show any." (Some laughter was here prevalent in the House.) Why, yes, this is sport to the House, but it is ruin to the poor creditors in Ireland. Let Honourable members just look what this "favour" goes to produce. A man may have £20,000 in the English funds, or in any investment which the law does not reach; he may be living in Ireland in the midst of luxury and magnificence; a hundred writs may be out against his person; but, so long as he can bribe the sheriff to give him notice in time, he may defy his creditor, and suffer him to starve. And the evidence which I am quoting does not stop at this point. It asserts, perhaps, no more in fact than has already been stated; but it gives certain assertions in rather stronger terms. For instance—

Question, "Do you mean to say, then, that there is one practice for the higher orders in Ireland, and another for the lower?" Answer, "Yes." This is speaking pretty plain. Question, "Stricter in the one case than in the other?" Answer, "Certainly." Is not this what Lord Redesdale had in his eye when he said, "There is one law for the rich, and another for the poor—both equally ill administered?" The evidence given by this man of practical knowledge and habits bears out to the very letter that which Lord Redesdale asserted.

It is to be hoped that the same abuses which are here detected at every step do not reach to the higher branches of the administration of justice; but it is fit to remember, that so long as the present disabilities exist, so long as the judge who tries the question between the Catholic and Protestant, must himself be a member of the Protestant establishment; so long, in despite of individual talent or popularity, all rank at the bar, and all advantages attendant upon rank — such as weight with the Court, and general influence in society —all this must belong to a favoured class, and to a class which is looking up for favours in future. It is from this favoured class still that the sheriff is chosen. It is the sheriff who has the summoning, by his office, of the juries. And when it stands proved, that a sub-sheriff may be hired to pack a jury, and that it is every day's practice for a sub-sheriff to be bribed for permitting the debtor to escape from his creditor, is it unfair to insinuate, that possibly a Protestant sub-sheriff may be found as accessible to political prejudices, or feelings of religious conformity, as to the meaner motive of a paltry present advantage arising from a bribe in the shape of ready money? With respect to the Bench of Ireland, I have little to say. Different countries have different usages; and circumstances may happen, as matters of course, in one, which may be held highly reprehensible and indecent in

another. I shall, however, freely avail myself of my privilege as a member of Parliament, to express my disapprobation of any Judge's conduct, when I consider that conduct to be unbecoming his high station. If a judge is bound at all times to maintain the dignity of his exalted office—if impartiality is the very essence of the performance of judicial duty, and without which no judge can be worthy of the name—surely, any mixture in party dissensions, any partizanship in religious or in political disputes, anything like entering into the detail of class differences and arrangements, anything approaching, however distantly, to becoming the tool of a particular faction, would be that sort of stain from which, above all others, the ermine ought most immediately to be purged and cleared. For, first, such interference touches a Judge's dignity; secondly, it renders his impartiality suspicious; and, thirdly, it goes to shake that respect which is due to every just and dignified magistrate—that respect which, if any magistrate forfeits by his misconduct, the sooner he vacates his office the better; the sooner that balance is wrested from him which he can no longer be expected to hold fairly—the sooner he drops that sword which none will give him credit for wielding usefully,—the better for the community and for the law. When once he has rendered it impossible for the public to view him with confidence and respect, he cannot too soon lay down an authority, the mere insignia of which are entitled to veneration. I now name Lord Norbury, in right of my privilege as a member of Parliament—that privilege which entitles me to speak my opinion upon Judges as freely and unreservedly as upon sheriffs or sub-sheriffs, upon attorneys, or upon the meanest of his Majesty's subjects—no just judge will ever object to such a proceeding—no judge will be found just long after the privilege so to proceed is abolished. Our judges in England are just, because they dare not perpetrate injustice; and as long as Judges are men, they will dare to perpetrate

injustice the moment the power of taxing them with it is lost. More than a year has elapsed since I laid before the House a letter addressed by Mr. Saurin, the late Attorney-General for Ireland, to Lord Norbury, the Chief Justice of the Court of Common Pleas in that country—a letter containing such a proposition as no Judge who sits in England would allow his most intimate, his dearest bosom friend, to make to him. I will venture to affirm, that if a letter like that of which I am speaking had reached any one of the learned judges of England, he would have been indignant; if it had come from any individual of high station, the more sudden, the more instant, would have been the flash of that reverend person's indignation. If it had come from a near friend, the task to perform would have been harder, but the name of friend would have ceased to belong from that moment to the writer. But here, a year has elapsed since the letter in question was brought forward, and yet Mr. Saurin has not denied it, nor has Lord Norbury produced his answer. What would have been the answer of an English Judge to such a letter? "I return your proposition; you know not the man whom you have dared to insult." But Lord Norbury has given no answer, or he has produced none. I trust that the answer has not been an answer of assent; but certainly it has not been such an answer as would have been given to such a proposal in England, or England and Ireland too would long since have been made acquainted with it.

Good God! Let the House consider what that letter called upon Lord Norbury to do. To job—to intrigue—for political purposes—upon his circuit! Carrying the ermine upon his breast, and the sword of justice in his hand, he was called upon, by the first law officer of the Crown to prostitute the authority with which those emblems invested him, to the purposes of a political faction. "I am told," said the letter, "it is the custom"—a custom more honoured in the breach than in the

observance—"it is the custom for you on the circuit to receive the country gentlemen in your private room, and to talk to them familiarly upon political subjects;" and this is to furnish his lordship with an opportunity of doing good to "the cause." It appears that he was in the habit of talking thus to the gentlemen of Phillipstown; and if he could impress upon them the consequences of granting the Catholic Emancipation, they would certainly elect Catholic members of Parliament—a consequence, by the way, most absurdly predicted; for there is scarcely a man in England who can believe that, if Catholic Emancipation were granted on the instant, all the Irish members returned would be Catholics; but, if he could impress upon the country gentlemen, that all the members returned would be Catholics, "and that those members would have the nomination of the Sheriffs, and in many instances perhaps of the Judges," I do not see how he will satisfy them that "they could scarce live in the country, if the measure were passed." So, here is a Judge desired to take the opportunity of his circuit to deliver this lecture at place after place as he moves on; and to throw in suggestions, moreover, of such corruption in the general legislation and government, as may enable the Catholic members returned by the Catholic voters to go up to the Treasury, and say, "Make such and such men Judges." The people of Ireland are to be told, and told by a Judge, that Judges may be appointed by political intrigue. Here is Lord Norbury instructed openly to decry the purity of that justice, of which he himself ought to have been the example and the ornament. He is to say, first, that the Judges are corruptly appointed; and next, that they act corruptly after their appointment.

The information contained in the remaining portion of the letter runs thus:—"If Protestant gentlemen, who have votes, and influence, and interest, would give these venal members to understand that, by betraying their

country and its constitution, they will infallibly lose their authority, it would alter their conduct, though it could neither make them honest nor respectable." Honest nor respectable! "If," concluded the Attorney-General for Ireland, "you will judiciously administer a little of this medicine to the King's County, or any other member of Parliament that may fall in your way, you will deserve well." As some vindication, however, of Mr. Saurin, for having presumed to write such a letter as this, I have now to read a statement to the House, which I have found in a Dublin newspaper under the head of "Lord Norbury's newest joke;" and from this statement, it appears that his Lordship—sitting on the bench—has reflected upon a Right Honourable gentleman, a member of the House, and also, that for the sake of getting at his joke,—so much dearer was jest than justice to the noble Judge—he has actually refused a rule which ought to have been granted as a matter of course, and which no man could have asked for in England without obtaining it at once. The circumstance out of which the joke arose was this:—A barrister moved for a criminal information against a half-pay officer, who insulted him in court. The officer was offended at something which the counsel had said of him in court, and he used language which, in England, would have made a criminal information a matter of ordinary course. Lord Norbury, however, refused the rule, and refused it in the following terms:—The motion having been made, and the offensive words stated, his Lordship said—"I remember when, if the words had been used to me, I should not have been at a loss in supplying an inuendo. The phrase has certainly a somewhat gladiatorial sound. No man respects or loves the bar more than I do; but great allowance is to be made for the chivalrous propensities of men of the sword. They do not, as Hamlet says in the play, 'set their lives at a pin's fee.'" What was this, from a Judge on the bench, but saying, "You are a paltry

fellow for coming here to me for protection; you know what the man wants: he wants you to go out and fight with him; and why don't you do it?" "On the other hand," his Lordship continued, "the gentlemen of the Bar have a repugnance to the arrest of that fell sergeant, Death." Why, is it not clear that the rule was refused just for the opportunity to introduce this wretched ribaldry? "From which profession," the Lord Chief Justice proceeded, "the immortal bard drew his illustration, I shall leave to the commentators. *Cedant arma togæ* is good Latin and good law; but I am a friend to conciliation, and shall give a triumph to neither party. I mean no allusion. (Loud laughter.)" Ay, "loud laughter" were the very words which followed the conclusion of this jest; and for the sake of the "loud laughter," no doubt, it was, that the poor lawyer was refused his rule. I venerate the Bench. I have a professional regard for it. I believe that no lawyer has ever shown a greater disinclination than myself to countenance reflections upon the conduct of judges, either in the course of legal practice or in the transactions of Parliament. But I revere the bench only so long as the bench respects itself; and when I meet with intrigue where I am entitled to expect purity —low ribaldry and flightiness where there ought to be dignity—and duty sacrificed, in the course of a legal proceeding, for the silly vanity of uttering a trumpery jest—when I find a Judge conducting himself in this manner—and when I find manifest proof, moreover, that this Judge is not above being tampered with by a Crown lawyer for party, I might say for corrupt, purposes—when I see such a spectacle as this, my veneration for the individual is gone, and even my patience is not proof against the contemplation of such impropriety. I declare that for myself, I know of but one opinion upon this subject. I have talked with different members of the legal profession; I have discussed the matter with men of all parties, of all ranks, of all standings;

and I have found in the profession, as well as out of it, but one opinion upon the point—but one sentiment of disgust at the attempted intrigue of Mr. Saurin; an attempt which Lord Norbury, if he has not lent assistance to it, has certainly not treated in the way in which an English Judge would have found himself compelled, but would most willingly have hastened, to treat it.

Upon a variety of other topics, connected with the ill-administration of justice in Ireland, I will detain the House but a short time. In general, it is sufficient to state the practice as it exists, and each particular case furnishes sufficiently its own comment. In this condition stand the three systems of the Civil Bills, the Revenue Boards, and the Assistant Barristers. For the Civil Bill system it is scarce necessary to go beyond the records of the House. Act after act has been passed upon the subject, each admitting the faults or abuses let in by that which went before it. For the Revenue Boards, their whole construction carries abuse or mischief upon the face of it; the same individual adjudging forfeiture one moment, and claiming the benefit of it for his own advantage the next; and control over the liberties and properties of the King's subjects is committed to the hands of men without a qualification which would fit them to exercise it. But, though I have not exhausted the subject, yet the subject has exhausted me. I can only go so much farther as to beg the House would remember, that matters in Ireland cannot rest as they are for ever. One day or other the time must come, and the House will have to give an account of its stewardship of that country. England possessing Ireland, is in the possession of that which ought to be her security in peace, and her sinew in war; and yet, in war, what has Ireland been but a strength to our enemies; what in peace but an eternal source of revolt and rebellion and strife with ourselves? Ireland, with a territory of immense extent, with a soil of almost unrivalled fertility, with a

climate more genial than our own, with an immense population of strong-built hardy labourers—men suited alike to fill up the ranks of our armies in war, or for employment at home in the works of agriculture or manufactures;—Ireland, with all these blessings, which Providence has so profusely showerd into her lap, has been under our stewardship for the last hundred and twenty years; but our solicitude for her has appeared only in those hours of danger, when we apprehended the possibility of her joining our enemies, or when, having no enemy abroad to contend with, she raised her standard, perhaps in despair, and we trembled for our own existence. It cannot be denied that the sole object of England has been to render Ireland a safe neighbour. We have been stewards over her for this long period of time. I repeat, that we shall one day have to give an account of our stewardship—a black account it will be, but it must be forthcoming. What have we done for the country which we are bound to aid, to protect, and to cherish? In our hands, her population seems a curse to her rather than a blessing. They are a wretched, suffering, degraded race—without a motive for exertion—starving in the midst of plenty. But wretched as they are, they will not be content to remain so. They now demand justice. They call for it at your hands; and they are ready to prove their grievances. In fact, they have proved already the scandalous and unequal administration of the Laws. In England, justice is delayed; but, thank Heaven, it can never be sold. In Ireland, it is sold to the rich, refused to the poor, delayed to all. It is in vain to disguise the fact; it is in vain to shun the disclosure of the truth. We stand, as regards Ireland, upon the brink of a precipice. Things cannot remain as they are. They must either get better or get worse. I hope—I trust—that such an interval may yet be granted, as will allow time for measures—and they must be sweeping ones—of reformation; but if that

interval is neglected, frightful indeed are the consequences which will ensue. I may be wrong in this prediction. But, if I am wrong, I do not stand alone. I am backed in what I say by the spirit of the wisest laws—by the opinions of the most famous men of former ages. If I err, I err in company with the best judgments of our own time; I err with the common sense of the whole world, with the very decrees of Providence to support me. We are driving six millions of people to despair, to madness. What results can reasonably be expected from such blind obstinacy and injustice? It will not do for Honourable gentlemen to meet this case with their old flimsy defences and evasions. Excuse after excuse we have had, for refusing to do that unhappy country justice; but the old excuses will not do—they will apply no longer—they cannot any more be even tried. At one period we could not listen to the Catholics, from an apprehension of Buonaparte; at another period, the question was abandoned for fear of breaking down a strong Administration; on a third occasion, the claimants were met with "the scruples of the monarch." Buonaparte has since died upon the rock of St. Helena, in solitary confinement and unnecessary torture. The English monarch, too, has gone to his great account. There are no scruples in the present King's breast which weigh against the interests of Ireland. Two objections, therefore, to the claims of the Catholics, are, by the mere lapse of time, completely got rid of; and for the third—the danger of breaking down a strong Administration—it will be admitted, on all hands, that we run very little hazard just now of doing anything of that kind. To attempt any course with Ireland short of a complete redress of grievances, will be a mockery of the evils under which she is suffering; but the greatest mockery of all—the most intolerable insult—the course of peculiar exasperation—against which I chiefly caution

the House, is the undertaking to cure the distress under which she labours, by anything in the shape of new penal enactments. It is in these enactments alone that we have ever shown our liberality to Ireland. She has received penal laws from the hand of England, almost as plentifully as she has received blessings from the hand of Providence. What have these laws done? Checked her turbulence, but not stifled it. The grievance remaining perpetual, the complaint can only be postponed. We may load her with chains, but in doing so we shall not better her condition. By coercion we may goad her on to fury; but by coercion we shall never break her spirit. She will rise up and break the fetters we impose, and arm herself for deadly violence with their fragments. If the Government is desirous to restore tranquillity to Ireland, it must learn to prefer the hearts of the Irish people to the applauses of the Orange lodge. The warm-hearted disposition of that people—their desire for the maintenance of cordiality and good feeling—have been sufficiently evinced during his Majesty's recent visit to Ireland. What will not be the reception which they will give to their representatives for benefits actually conferred? But I am afraid to trust myself with the idea of a prospect, which I fear it will never be my good fortune in reality to behold; I believe I must come back to my sad original demand —those rights of common justice, that equal administration of law, from which Ireland is the only portion of Great Britain that is excluded. To do wrong to their subjects, in some instances at least, is the ordinary frailty of governments. To deny the wrong, upon complaint being made, is not uncommon; but to deny the fact, and therefore to refuse justice, and, upon a re-assertion of the matter of complaint, to say—"I deny the grievance—I refuse redress—I know that you offer to prove it, but I did not do the wrong, and will not consent to an inquiry"—what is this but

adding to injury and oppression mockery and insult? But, whatever the House may do, I have performed my duty. I have released myself from my share of the responsibility, as to the sufferings of Ireland. If the inquiry which I ask for shall be refused, I shall most deeply deplore it. But the satisfaction will remain to me, that I have urged the House to its duty, and have omitted no arguments which I thought available, to press you to the adoption of those measures, without which, on my conscience, I believe there can neither be peace for Ireland, nor safety for the empire. I now move you, "That the Petition of the Roman Catholics of Ireland, complaining of inequality in the Adminstration of the Law, be referred to the Grand Committee for Courts of Justice."*

* This speech is the one alluded to by Mr. Wilberforce, in a passage of his Diary, cited in the *Life* lately published by his sons, in these terms (vol. v., p. 186)—"June 23. Brougham's speech quite thundering in the peroration—magnificent but very unjust declamation on great abuses of Irish Administration of Justice." Nothing, however, can be more correct than the statements of the Speech in point of fact. The evil state of the Irish Judicial system was a thing quite inevitable, while the whole Bench, and all the executive offices of justice, from the High Sheriffs down to the lowest tipstaffs, were filled by the dominant sect exclusively—when every Catholic was tried by his adversary, and all the process of the law, as well as the impannelling of juries, was executed against him by his political and religious antagonists. Nothing in such a state of things could possibly prevent the grossest abuses and the most grievous perversions of the law, unless, indeed, we suppose the Irish to be of a different nature from all the rest of mankind. This is manifest, even without resorting to Lord Redesdale's celebrated dictum, that in Ireland there was one law for the rich, and another for the poor—a dictum, respecting the accurate reporting of which a doubt has since been raised.

REPLY.

Unless I shall trouble the House with a few words in reply to what has fallen from the Right Honourable gentleman,* both myself and the case committed to my care will be placed in an extremely unfair position; and the House itself, or at least a large portion of it, will have reason to complain of being driven to a decision in the dark, upon a question of the utmost importance. It must be observed, that when I addressed the House at an early period of the evening, I spoke to a different audience from the one which has just heard the Right Honourable gentleman's speech. The effect of this is most unfair, if I do not reply. Would not any one, for instance, who only heard his speech, infer from the manner in which he laboured the point of Mr. Scully's pamphlet, that I had made statements from this publication? But I never made the least allusion to it. I carefully and of purpose avoided taking any one statement from it, or resting any one proposition upon its authority, although I am fully aware of its value and importance in the discussion. I have, however, to return my thanks personally to the Honourable member for Galway† for the exceedingly jocose notice which he was pleased to take of my former address to you. I never remember to have witnessed a more successful piece of mimicry, if I may be allowed technically speaking, to say so, "on

* Mr Peel. † Mr. Martin.

these or any other boards;" and I cannot help congratulating the Right Honourable Secretary,* our new manager, on having been enabled to close his theatrical career for his first season, with presenting to the favour of an indulgent and discriminating public so very eminent a performer as this actor from the Irish stage proves to be.

The Right Honourable gentleman,† in answering my statements respecting Lord Manners, has impeached my credit as an historian of facts, without attempting to discredit my reasonings. Let us see how this matter stands. I had stated the number of his lordship's judgments reversed to be fifty in the hundred. He states them as eleven in twenty-two. Now, this is precisely, and to a unit, the same proportion with mine—being one-half of the whole number brought under review of the Superior Tribunal. If, indeed, I had seriously inferred from this statement, that, on an application to the Irish Court of Chancery, there was only an even chance of obtaining a right decision, I should have been guilty of exaggeration. This, however, is matter of inference from the admitted facts, not matter of controverted statement; as far as it required or admitted of exposure, it had been exposed on a former evening by the Solicitor-General; and I have now demonstrated irrefragably, that in my account of the fact, which the Right Honourable gentleman though fit, from an entire disregard of the particulars, to charge with inaccuracy, there was not the very slightest variation from his own statement. I might, with infinitely better reason, charge him with being ignorant of the most ordinary rules of arithmetic; but I content myself with accusing him of a total inattention to the argument he was handling, and an over anxiety to bring charges against his adversaries. I must, however, add, that if I admit

* Mr. Canning. † Mr. Peel.

the inference against Irish justice to be somewhat exaggerated, which is drawn from the equal number of affirmances and reversals, I can by no means allow that inference in favour of Lord Manners' judicial capacity, which the Right Honourable gentleman draws from the equal proportion of right and of wrong judgments when tried by the Court of Appeal. I freely acknowledge that I do not entertain the same profound respect for the noble Lord which he professes to feel. I speak the general opinion of the English Bar at least, when I say, that as a lawyer he was unknown among us before his elevation to the Bench. I have since heard him distinguish himself as a judge, a lawyer, and a politician combined in one,—a union always most inauspicious; and I confess, that if I testify so much less respect for him than I could wish, or than any kinsman of yours, Sir, might have justly been deemed entitled to, it is from my recollection of his conduct on that great occasion, the Queen's case—conduct which excited indignation and disgust. Alone of all the assembled Peers he thought it becoming to call the illustrious person "that woman," and in a tone, too, not easy to be forgotten. He followed up this treatment by delivering an opinion which exhibited him as a lawyer in colours not much more favourable, which raised the wonder and moved the pity of all the profession, and which drew from the learned and venerable Keeper of the Great Seal, a remark felt by every one present as a correction and a rebuke.*

I cannot on this occasion omit all further mention of Mr. Saurin's letter, because at every Catholic meeting, and indeed in every discussion of the subject, arguments are drawn from it and reference made to it,—more particularly in the debate at the great assembly which agreed to present the petition read this evening

* Lord Manners laid it down as a matter quite of course, that "agent or not agent" is always a question of Law. Lord Eldon said, "he thought everybody had known that it is always a question of fact."

as the origin of the present motion. Without, therefore, being unreasonably fastidious, I really felt that I could not have declined all mention of this letter when I last addressed you. And why, let me ask, am I to be blamed for simply referring to an extensively published letter, as if I had first given it publicity? After it had run the gauntlet of all the newspapers in both Islands,—after it had been the established topic of discourse at every meeting for months past,—after it had become the standing dish in the Irish bill of fare wherever two or three were gathered together to partake of the political banquet, either spoken, or written, or printed, during the whole parliamentary season,—the Right Honourable gentleman comes forth with a solemn denunciation against me for merely referring to what all men have been reading and commenting upon, speaking, copying, handing about, printing, debating, attacking, defending, any time these last three months, in every place of resort all over the United Kingdom! I should at all times be the very last man in the whole world to sanction the publicity of any paper obtained—as I presume this letter must have been—by unfair means, and never intended by its writer to meet the public eye; and I entirely agree with the Right Honourable gentleman in his condemnation of those who have been concerned in obtaining the letter for the purpose of publishing it.* Their conduct may not be criminal by the enactments of the law, but it is morally dishonest, and it is revolting to every honourable feeling. I go heartily along with him in reprobating all such odious practices; I hold with him that it is shameful, indecent, abominable to encourage them; I consider it as truly detestable to hold out the encouragement of bribes for

* Mr. B., on Mr. Peel thus attacking him, turned to Messrs. Denman and Williams, and used Cromwell's words at the Battle of Dunbar, when he saw his enemies quitting their position to advance upon him—"The Lord hath delivered them into our hands."

the purpose of corrupting servants, and inducing them to violate their first duty, and betray the secrets of their master—Aye and of their mistress too!—I say of their mistress!—of their mistress!—and not only to betray her secrets, and to steal her papers, and to purloin her letters, but to produce them for the treacherous, the foul, the execrable purpose of supporting a charge against her honour and her life, founded on the documents that have been pilfered by her servants and sold to her enemies! the proofs obtained by perfidy suborned, and larceny perpetrated! —and then to carry on a prosecution wholly grounded on matter drawn from sources so polluted, as at once insulted, disgraced, and degraded the nation—a prosecution so foul, so utterly abominable, making the sun shroud himself in darkness, as if unwilling to lend the light of day to the perpetration of such enormous wickedness!* And by whom was this infamy enacted? By the ministers of the Crown—by the very colleagues of the Right Honourable gentleman who now pronounces so solemn a denunciation of all that tends to encourage servants in betraying the confidence of their masters and their mistresses! If he is sincere, as I cannot doubt he must be, in his reprobation of such vile practices, what disgust must he not feel at sitting in the same cabinet with the very men whose conduct he has so vehemently disclaimed! Not all of them indeed are touched by his disclaimer.. The Secretary for Foreign Affairs,† to his great honour, early avowed the abhorrence. with which that unparalleled proceeding filled him, and withdrew from all participation in it. I must also except my Right Honourable friend the President of the Board of Control,‡ whose upright mind would never have suffered him to hold office while so atrocious a work was doing. But

* The eclipse of the sun at the opening of the case against her Majesty.
† Mr. Canning. ‡ Mr. C. W. Wynn.

with these exceptions, all the other colleagues of the Right Honourable gentleman,—the Chancellor of the Exchequer, who sits beside him; the Lord Chancellor Eldon, her late Majesty's ancient counsellor and warm partizan,—all concurred in carrying on the foul business which the Right Honourable gentleman now so loudly and so justly reprobates. I should like to see with what countenance he meets my Lord Chancellor after a report of his opinion delivered this night shall have reached that noble and learned person. (Cries of "*Question*," among the *cheers* which this remark occasioned). Aye, you may cry *question*—you may try to change the subject—you may endeavour to bring on some other topic, when I touch a matter that cleaves to your consciences, and betrays while it stings your feelings. Yes, Sir, we were ourselves parties to this degradation. We have yet a green bag in our possession, which, instead of rejecting it with horror and disgust, we received with open arms. We laid it on that table,—we entertained the subject of its foul contents,—and, but that some opportune chance occurred to prevent it, we should have raked into all the filth that it contained with the malice, the appetite, and the fury of beings little above the condition of a fiend. It was filled with matter procured by means in comparison to which the means taken to obtain Lord Norbury's letter rise into something of respectability. Let us not, therefore, now be so very nice on such a topic, nor so very loudly condemn those whose bad practices may have been prompted, as they are far more than sanctioned, by our own evil example.

Great stress has been laid in this debate upon my alleged mis-information as to Sir Harcourt Lees being a magistrate. I can only say that I had my information on this point from a gentleman whose authority I considered to be good. The Right Honourable gentleman, however, denies that the Reverend baronet

was ever in the Commission of the Peace. Suppose the fact to be so, it cannot alter the case which I did not at all connect with the statement of that circumstance. The case stands confirmed in many other points. I stated that justice is bought and sold in Ireland; and we have this now admitted by the member for Limerick, the son of one of the chief magistrates in the sister kingdom, and whose hereditary prepossessions would certainly have led him to a contrary statement, had he felt it possible to make it. I did not so much condemn the individuals as the system. I do not mean to represent Irishmen as more prone to corruption than others; but I do say, that under such a system, a set of angels, much less of Irishmen, could never be free from corruption and injustice. None of my authorities have been disputed except that of Mr. Justice Fletcher, whom the member for Galway* has described as one of the worst of judges; partial, irritable, unjust, and whom nothing in all his life became so much as the leaving it. The opinion is certainly somewhat severe; and I make no manner of doubt that there may be some passages in the Honourable member's own life which give him a knowledge of the subject, and make him an experienced authority regarding the learned Judge's judicial character.† Still I must say, that his statement is the very contrary of all that I had hitherto heard respecting Mr. Justice Fletcher. I had always understood him to be upright, strictly impartial, and sincere in the opinions he professed. I will not now go into the question how far a judge may with propriety deliver a political charge; but I will assert that next to the merit of not having done so at all, Judge Fletcher is entitled to the praise of delivering an

* Mr. R. Martin.

† It was supposed that Judge Fletcher had presided on the Crown side, on the occasion when Mr. Martin was tried for murder in a duel; but this has been since questioned.

exceedingly good one. It is said that his opinions are opposed by those of Mr. Baron Smith. For that learned person I entertain much respect. I admit his talents, and I have nothing whatever to say against his character; but if I were to form an opinion from some of his works, which it has been my fortune to read, and also bear in mind that they proceeded from a learned Judge on the Bench, I confess that I should be unable to entertain a very high opinion of the soundness of his judgment; and to bring him, as an authority, into any kind of comparison with Judge Fletcher, would be entirely out of the question. Except in the particulars to which I have referred, the whole of my authorities remain altogether unimpeached.

But then comes the Honourable member for Cork,* who has got into the most laudatory mood ever man was in, and has praised the whole administration of Irish justice in all its branches. He eulogized the twelve judges, the grand juries, the petty juries, the justices, the assistant barristers, in short, all the authorities connected with this portion of the civil government of Ireland. All were alike pure, and wise, and impartial, and just. Praise so wholesale, so unqualified, so indiscriminate, reminded me of a passage related in Mr. Hargrave's life, when he was appointed Recorder of Liverpool. That extremely learned person was so pleased with his elevation, and so satisfied with his reception by the good people of the town when he went there to exercise his judicial functions, that he was flung into a fit of praise, like that of my Honourable and gallant friend, and on his return he could never cease in his panegyrics. As for the magistrates, "Oh!" he would say, "they were all that could be desired, so kind, so humane, so considerate, so active, seeming to delight only in seizing every opportunity

* Colonel Hutchinson.

of being useful." Then the attorneys who practised before the worshipful bench, they, also, were a most worthy and respectable set of persons, deserving of a better fate, and well fitted to do honour to the wig and the gown. The juries, too—both grand and petty (as the member for Cork has it), they were most kind, attentive, and intelligent. And as for the suitors, they were so civil, and so candid,—so grateful for the smallest portion of justice, that it really was a pleasure to administer it to them. "But the prisoners?" said one who had been listening to this laudatory statement. "What of them?" "Why, really," said Mr. Hargrave, "for men in their situation, they were as worthy a set of people as I ever met with." Just so it is now in Cork, we find. The gallant representative of that community vies with the learned Recorder of the other place, and exempts from his praise nor judge—nor juror, grand or petty—nor recorder—nor assessor—nor justice—all are sacred to panegyric in Cork and its neighbourhood. To be sure, there was one expression that crept into the eulogy, thus meant to be unqualified, which rather detracted from its value, and in a somewhat material part. "The twelve Judges," says my Honourable friend, "are *generally* pure." In England, we are accustomed to think quite as a matter of course, that all our twelve Judges are, without any exception, pure and incorrupt. What notion would a foreigner have of our administration of justice, were he told, and told by one bent upon extravagant praise of it, that the Judges of the land are, "generally speaking, pure?" For my own part, I never reported the Irish Judges as corrupt; but I did maintain, that from the system established in Ireland, they were more liable to be swayed by prejudices of party, of person, and of sect, than is compatible with the pure and impartial distribution of equal justice. It has always been admitted, that the Court of King's Bench is pure; but this is

really put forward with so much ostentation, it is promulged in so triumphant a tone, that one might be led to suppose as much could not be said for the other two Courts.

In conclusion, let me implore the House to adopt this resolution. Their assenting to it can by no possibility be productive of any mischief, but it will promote conciliation,—it will calm angry feelings,—it will remove discontent,—it will avert danger of which we can neither see the extent nor the consequences. I hear it said that this is not the Petition of the Roman Catholics of Ireland, and does not speak their sentiments. There can be nothing more absurd or more wide of the truth than such an assertion. The sentiments of the great body of the Catholic people of Ireland are truly stated in the Petition. The body from which it proceeds is looked up to with entire confidence by the body of the constituents whom they represent, and for whom they act. The strong language used by persons so entrusted by their fellow-countrymen, may well be excused even if it passes the bounds of moderation, when we recollect how much they all have at heart the object in view. But of one thing be you well assured, that there can no more certain way be found of causing the language of this petition, vehement and even violent as you may think it, to be re-echoed from one end of Ireland to the other, than by alleging that it is indecent, that it comes from parties not entitled to respect, and that it speaks not the sentiments of the Irish people. That one sarcasm which has to-night been resorted to, in allusion to some condemned tragedy,* of a supposed party to the composition of this document, will rouse six millions of Catholics to rally round their two thousand leaders. I would advise this House not to

* Mr. Peel having likened the composition of the Petition to "the declamatory style of a condemned tragedy, rather than a grave representation to the legislature," was supposed to refer to some dramatic efforts of Mr. Shiel, a party concerned in its preparation.

criticise the Petition with too severe a nicety. I would bid them look at the state of Ireland,—such as now to raise fears in those who never feared before,—such that while yet I speak, she may be involved in serious peril. Let the House throw open wide the doors of its Grand Committee of Justice to the prayer of this Petition! The effect will be instantaneous; all danger of popular excitement will be averted, or at least suspended; and hope raised in the minds of all, will keep them quietly fixing their eyes upon what the next session may accomplish for their relief. In the name of six millions of your fellow-subjects, whose interests I am maintaining, whose wishes I represent,—in the name of the whole community whose peace is threatened,—in the name of the empire at large, whose security is endangered,—I conjure you not to reject the prayer of this Petition, but to obtain present safety for the commonwealth, by telling the Irish people that you will consider their case, and at length do them justice.

Since the preceding debate, several very important events have happened, which nearly relate to the subject of it.

I. The first of these is the carrying of the great measure of Catholic Emancipation by the Duke of Wellington and Sir Robert Peel, early in 1829. The firmness and vigour of that proceeding, so truly worthy of the renowned individual by whom chiefly the achievement was won, cannot be too much admired. Nor, in paying this willing tribute, can any person who lays claim to the character of fairness and justice, forget the long efforts and the many sacrifices of Lord Grey, Lord Holland, Lord Lansdowne, and the other Whig leaders, to the same cause. The Duke was but a recent convert to the policy which they had throughout their

lives maintained, at such heavy cost to all the objects that ambitious men hold most dear,—objects sacrificed only by the statesman whose patriotism overleaps all selfish bounds.

Many persons, observing the rise in Roman Catholic demands since the Emancipation, and perceiving how little either agitation has ceased, or the discontents of the Irish people and their spiritual leaders have been allayed, deem themselves justified in asserting that the Protestant Establishment has been weakened and put in jeopardy for nothing, and that all the expectations held out of benefits from the Catholic Relief Bill have been frustrated. Nothing can be more true than that less by far has been gained from the measure than all men seemed to hope; but its long delay is in great part to be charged with this disappointment. Moreover, no person ever pretended that the Emancipation alone could work the miracle of at once restoring Ireland to peace and contentment, and efface the effects of so many centuries of misgovernment. Other measures were always felt to be necessary for producing the blessed fruits of order and tranquillity. Above all, it was clear that the mere conferring of equal rights upon every class and sect would not suffice even to satisfy the reasonable desires of the most moderate partizans of the excluded caste. To be eligible only, and never be elected; to be qualified by law, but excluded in practice; to be rendered capable of promotion, but never be made partakers in the honours and emoluments and powers attached to the public service—so far from an improvement in the condition of the Catholics, appeared rather a worse lot than that from which the Emancipation pretended to redeem them; it seemed as if insult and mockery were added to injustice and oppression. Lord Wellesley, who had nobly signalized his entrance into public life by fighting under Mr. Grattan's standard for the great cause of Legislative Independence, had, before the Emancipation was carried by his illustrious brother, rendered himself still more

dear to the Irish people, during his first Vice-royalty, by holding even the balance between conflicting sects, and resolutely giving to the Catholics every advantage which the law permitted them to enjoy; and he equally illustrated his second Lieutenancy, after their acquisition of equal legal rights, by seeing that the fact and the law corresponded, and by admitting them to a full share in the honours and profits of the State. Lord Anglesey adopted the same wise and statesmanlike course; and Lord Normanby (one feels a pleasure in restoring to him a name which his talents as a private and literary man had made celebrated), pursuing the same manly and honest policy, has most justly endeared himself to the Irish people. But this is all too little for the great exigency of the case; other measures of reform in Church and in State are still imperiously required to tranquillize Ireland; and as long as the greatest practical abuse that ever existed in any civilized country continues untouched, or touched only with a faltering hand,—the Irish Church as lavishly endowed for a sixteenth part of the Irish people, as if more than double their whole number could partake of its ministrations,—there assuredly never can be peace for that ill-fated land.

II. The late extension of the Poor Laws to Ireland is a measure of almost equal magnitude with the Emancipation itself, and of a truly portentous aspect. It has been strenuously resisted by all parties and all sects in that kingdom. The circumstances of the two countries are so totally different, in some most material respects so entirely opposite, that no argument can be drawn from England to Ireland in behalf of this ill-starred policy. Into the question at large this is no place to enter. Lord Brougham's speeches, in which he continually opposed the Bill, and showed how inapplicable its provisions were to the state of the country for which it was framed, proceeded exactly upon the principles unfolded in the speech on the English Poor Law

Amendment Act, contained in this collection. No man, indeed, without being friendly to the worst abuses of our system, which that act was designed to amend, can consistently support the late extension to Ireland of a policy so liable to be abused, and from the abuse of which England is only gradually and at length beginning to recover.

He pointed out when the subject came last before the House of Lords, other measures which the safety of Ireland required. One was the abolition of the Lord-Lieutenancy, without which the Union can never be said to be perfect, and of which all our most eminent statesmen, including Mr. Pitt, Lord Grenville, and Lord Wellesley were the decided friends. Another, and still more important measure, was the making provision by law for the Romish clergy. This would indeed be by them vehemently opposed, especially at the first, and before it was carried. But Lord Brougham expressed a confident belief that, when carried, it would be cheerfully and even thankfully acquiesced in. A statement is current upon this subject, and of its truth there is no manner of doubt. One of the Catholic prelates being asked by a distinguished minister what the Romish clergy would do were such a measure to be propounded? answered, "All without one exception would oppose it to the uttermost and to the last." But upon a second question being put, "What would they do were it carried? the answer was as ready—"All without one exception would take the benefit of it and be thankful."

But Lord Brougham held even this to be insufficient. The grand abuse of the Irish Established Church,—so incommensurate to the benefits it rendered the State,—so grinding to those millions who dissented from its worship,—this master evil he regarded as the source of perennial discord, and as a thing of impossible duration. Nay, he foretold that hardly any who heard him were so aged that they might not expect to outlive so enormous an abuse as the gross disparity universally complained of.

III. There has occurred a disclosure upon the course pursued by the Irish Government in naming the Sheriffs of Counties, which any one interested in the great subject of the Irish judicial administration, must feel to be most important, and which connects itself closely with the topics discussed in the foregoing speech of 1823. It appears that the executive government habitually interferes with the choice of those important Ministers of the Law; does not, as in England, consider the lists given in by the judges to be at all binding; displaces without any scruple all the names so selected; and frequently appoints others without any communication from the Bench. This course of making pocket-sheriffs, or sheriffs without any judicial authority for their nomination, is found to have been followed no less than twenty-two or twenty-three times in three years. So grave a matter unavoidably called for the attention of Parliament, and it was ably and temperately submitted by Lord Lyndhurst to the House of Lords, as the especial guardian of the purity of our Judicial Establishment. A Committee was in consequence appointed to investigate the whole of this subject; and a more important inquiry has, perhaps, never been undertaken by either branch of the Legislature. It is hardly possible that results favourable to the cause of good government and popular rights should not follow from the Committee's labours. Certainly, had the things now known been disclosed before the debate in 1823, it would have been wholly impossible to resist the motion then made and rejected. For an habitual interference of the Crown with the appointment of an officer upon whom depends both the execution of all judicial orders and the return of all members to serve in Parliament, must at any rate be put a stop to, in whatever misapprehension of the law such an abuse may have had its origin.

EXTRACT FROM SPEECH

ON THE

ADMINISTRATION OF JUSTICE IN IRELAND.

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HOUSE OF LORDS—AUGUST 6, 1839.

IF there be any one thing which more than another deserves the anxious attention of this House, above all other tribunals, it is the thing, whatever it may be, that touches the function peculiarly appertaining to this assembly,—this supreme judicature,—this highest court of justice in the kingdom. Whoever has practised in our courts,—whoever has presided over them, —whoever has observed the mode in which the judicial business is carried on,—whoever has meditated on the constitution of these realms, as regards its executive, legislative, and judicial branches, must be prepared to say, with me, that, of all the branches of our polity, the pure, correct, and inflexible administration of justice is by far the most important. It is this great power, this prodigious clamp, which binds all the parts of our vast social structure together. It is this great solid belt, which guards and strengthens our whole system,—our great pyramid,—formed as it is, of various and of discrepant materials, in shape and size differing from the lowest and broadest to the most exalted and the most narrow. As long as that mighty zone which connects the upper and lower parts, while it strengthens the whole edifice, remains unimpaired, you may well disregard all the perils with which the constitution can be threatened, in what quarter soever its assailants may be found, or against what part they

may point their attacks. Let the Crown have all the lust of power that can inflame a tyrant—give it a venal House of Lords—give it an obsequious House of Commons — give it a corrupt Court, and a people dead to the love of freedom,—from the King's Court at Windsor, I will appeal to the King's Courts at Westminster; thither I will flee for safety, to the remains of liberty,—and, in the sacred temple of justice, I shall find the indestructible *palladium* of the constitution. Or let the danger come from another quarter. Let there be a vacillating House of Commons,—a Parliament in which the people's representatives know not their own minds, dare not declare any firm or fixed opinion, but mutter resolutions which they cannot articulate—voting, now this way, by a narrow majority, and now that, by no larger a balance, —let the force of the constitution, thus neutralized in the one House, be concentrated in the other, so that the Lords shall seem to rule the whole, the mixed monarchy to be gone, the balance long vaunted to be at length destroyed, and an aristocracy to be all but planted in its stead,—still, against the corruptions of oligarchy and the insolence of patrician domination, I seek for shelter to liberty and protection to right, in the impregnable bulwark of judicial power. Or, again: if the danger should threaten from another quarter,—the quarter whence, certainly, it is the least to be dreaded,—if the pressure should come from the swelling, and loosening, and cracking of the foundations,—if the "fierce democratie" should wield unsafely its powers,—if the outrages of popular violence should assail the fabric,—to its wild waves I will oppose the judicial system as a rock against which the surge may dash—and must dash in vain. Of that judicial system, the assembly which I now address is emphatically the guardian; with that administration of justice, this House is eminently, and in the last resort, entrusted by the constitution;—and to you, therefore, my Lords, it

is, that I now earnestly make my solemn appeal. In all the difficulties of our country, in all her perils, she looks to you with the best hopes for preserving the judicial power by which she may surely be saved. As often as any attempts can be perceived to break down this barrier, the growth of ages,—attempts slowly and gradually made, and, it may be, made without evil design,—for, in the present instance, I impute no bad intention, nor anything more than indiscretion, or excess of feelings in themselves harmless, nor do I even suspect any unkindly or unamiable disposition,—still the inroad must be resisted in the outset, and a solemn authoritative declaration from your Lordships must loudly promulgate the sacred principles which have been violated, and sternly warn against a repetition of the fault. Wherefore it is, that I have deemed it my duty to press upon you the adoption of the resolutions which I now submit to your calm and deliberate consideration; and, on behalf of the British constitution,—bound up, as it is, in the pure administration of justice,—I implore your Lordships, this night, to pronounce upon them your decision of affirmance. I move you,—*

"That it is the duty of the executive Government, when considering any case of conviction had before any of the King's judges, with a view to remitting or commuting the sentence, to apply for information to the judge or judges who tried the case, and to afford such judge or judges an opportunity of giving their opinion on such case, unless circumstances should exist which render any such application impossible, or only possible with an inconvenient delay; but that it is not necessary that the executive Government should be bound to follow the advice, if any, tendered by such judge or judges:

* These were the third and fourth resolutions referred to in the concluding passage of the speech.

"That the prerogative of pardoning all offenders in the conviction for which private parties are not interested, and other than offences against the Habeas Corpus Act (31 Charles II., c. 2), is a high, indisputable, inalienable prerogative of the Crown; but that it is vested in the Crown for the purpose of aiding in the administration of justice, and is to be exercised so as best to attain that important object; that it ought never to be exercised without full and deliberate inquiry into all the circumstances of each case and each individual; and that its exercise ought to depend on those circumstances; and never, on the accident of the Sovereign, or his representative, happening to visit the place where an offender under sentence may be confined."

PERORATION OF THE REPLY.

My Noble Friend (Lord Plunkett) says, that I am unacquainted with the meaning of the prerogative of mercy, and that I entertain an unconstitutional or an ignorant notion of this eminent office of the Crown,—a function which he extolled as beyond every other possessed by any kind of functionary, elevated, peculiar, beyond being touched; a function spoken of as above being controlled. But I am not half so ignorant, permit me to say, as my Noble and Learned Friend himself, who thinks that this is distinguished from every other prerogative of the Crown; that it is to be exercised at the mere grace and pleasure of the Crown; that it differs from every other prerogative, inasmuch as the subject has no claim upon the Crown for it, and no right whatever to ask it. If this, indeed, were the only one of the prerogatives exercised at the pleasure of the Crown, how does the Crown create Peers? How does it grant franchises? How does it confer pensions? No man, surely, has any right to a peerage, or other honour, though we every day see many men obtain such. No man has a right to a pension, or other Crown grant of profit. No body of men have a right to a charter or other liberty. In this respect, these ordinary prerogatives of the Crown differ not at all from my Noble and Learned Friend's peculiar and special prerogative of mercy. Why, really, instead of its being any distinguishing feature of the pardoning power, that it is exercised gratuitously, and that no one

can claim its benefit as of right, this seems rather to be the most ordinary feature in all the prerogatives of the Crown, and to be an incident common to them all. Out of its mere grace and favour, the Crown confers honours. Yet, if we see the Crown playing with that undoubted prerogative, as a child does with a bauble,—or if we see it used for wicked purposes,—who can doubt that the Minister will be responsible?—ay, and who can doubt that Parliament, seeing honours thus recklessly lavished, or unworthily bestowed,—distributed for a bad purpose, or for no rational purpose at all,—would interfere by a resolution, and control, or at once stop, the abuse of the Crown's right? Mercy is a prerogative of the Crown, to be exercised in the same manner as all other prerogatives,—with sound discretion, by responsible ministers, for the public good, not for the personal gratification of the sovereign, or his servants. It is, like all other powers in the State,—whether held by the Prince, the Peers, or the Parliament,—a public trust for the people's benefit; and the higher, the more important the subject-matter of it, the more delicate is the trust,—and the more cautiously, the more tenderly, the more deliberately must it be executed by the Crown. My Noble and Learned Friend asks, who ever heard, and when did we ever know, of an interference with the prerogative of mercy? Why, over and over again, even within the last two centuries.

There were the cases of Strafford and Stafford in the reigns of Charles I. and II., where the people interfered with the mercy of the Crown. These, however, were bad precedents, and I will not refer to them; but the statute of Northampton was made with this express view. To show my Noble Friend how little he knows of the subject he has been schooling us upon, I will only refer to two or three lines of that statute. I feel some satisfaction in proving to him that I am not so ignorant of the points of this law as he seems to think. "Whereas" (says

the st. 2 Ed. III.), "offenders have been greatly encouraged, because the grants of pardon have been so easily granted, in times past, of robberies, felonies, and other trespasses." Is not this precisely the argument in the present case? And upon this preamble the Legislature restricted the prerogative within limits which have subsequently been, no doubt, removed. But I do not consider that the reason thus assigned, and the law made in that year (1328), and confirmed ten years later, are a peculiarly ill authority for my own doctrine; at any rate, I am sure it is an answer to the somewhat triumphal question of my Noble and Learned Friend—when did any man ever dream of restricting or of touching the pardoning power? My Noble Friend, on this subject, while declaiming against our ignorance, only dealt, be it observed, in vague generalities. He laid down some positions; but he quoted not one single authority, save the very general and well-known panegyric of Blackstone, which applies to my doctrine just as well as to my Noble Friend's. Now, I, on the contrary, have quoted authorities; I have referred to Bracton and Staunford, as well as to the Statute Book; and I have especially referred to Serjeant Hawkins,—as great an authority, surely, on this question, as Mr. Justice Blackstone. If both Blackstone and Hawkins, on a point of criminal law, were quoted in any court of justice, I know which would be considered the best authority; but, in truth, Blackstone does not differ from Hawkins; he calls it, "the high and amiable prerogative of the Crown;" but he does not state that it is to be exercised without responsibility in the ministers by whom the Crown is served; far less does he say that it may be exercised through mere caprice, either of the sovereign or his servants. I prefer, however, the authority of Hawkins, because, instead of keeping to generals, he specifies the very principle that ought to govern the pardoning process. He lays it down, that mercy is not to

be shown, but in cases where, on due examination of all the facts, it shall clearly appear that, had the law been able to foresee the particular circumstances, it would have excepted the offender from the penalties which it has denounced. It is not to be adopted, because there are fifty or sixty prisoners in the gaol, and the governor shall say,—"I have a mind to let them out; if we make some of them shake hands, lecture others on their future conduct, and they all go out, either in a mass, as at Sligo, or in platoons, day after day, as at Clonmel, the movement will improve the state of the country." Much less is it said that the gaols may be cleared in one place, and left filled in another, according as the Viceroy shapes his course on a tour. Neither Mr. Justice Blackstone, nor Mr. Serjeant Hawkins, gives any countenance to so wild a plan of mercy as this. Nor does any one former precedent of our Government, since the time of the Plantagenets and Tudors, and the first of the Stuarts, when a coronation or an accession was the signal of gaol delivery in cases of a trifling sort.

Then it is said that I have been unjust towards Sir M. O'Loghlen, and that I have violated my own doctrine,—namely, that the judges should be held up to public respect, and not to public censure. But, then, my reference to Sir M. O'Loghlen was not in his judicial character, but as Attorney-General, in the advice he gave at the Castle, and the conduct he held when public prosecutor. As to the case of Gahan, I will only say that it has been totally misrepresented; but I will not go into it again. Every one who reads the evidence must agree with me. The nonsense that is told about Judge Moor having applied for Conner's pardon, who was concerned in the same desperate fray, is really below contempt. First, he never applied at all, but waited till the Government asked him, upon some member of Parliament applying. Next, he reported, not for a pardon, but for a year's imprisonment.

Again: he had sentenced him, on the jury convicting, to the greatest punishment the law allows. Fourthly, he had reflected for months on that verdict and that sentence, and never gone beyond doubting on the case. Fifthly, the ground, and the only ground of his doubt was removed by the second trial, when the sobriety of the policemen was directly put in issue. Lastly, the defence of Conners was totally different from that of Gahan,—being a question of identity;—so that nothing could be more easy than to believe the one guilty, although the other had been acquitted. They who argue thus, really are in as perverse a state of mind, and as hopeless an ignorance of the case, as ever Sir M. O'Loghlen was in, either when he took upon him to sit in judgment, by way of appeal from Chief Justice Docherty, who had tried the cause, or when he came before the committee to defend his judgment and explain its grounds. Greater ignorance of a case it is unnecessary, and it would be impossible, to conceive. With respect to that Right Honourable and Learned person, my Noble and Learned Friend (Lord Plunkett) needed not give himself the trouble of defending him at length,—not even of eulogizing his general conduct, still less of praising his judicial merits. I am no adversary of the Master of the Rolls, in his character at the bar; and of his conduct on the bench I never said one word. I join in the respect usually paid to him as his due in this high capacity. I did not even say a word of his demeanour as a witness. But, surely, the most ludicrous of all absurdities is, to hold an Attorney-General, —a public prosecutor,—a partizan at the bar or in the senate, or on the hustings,—exempt from all censure, —nay, from all comment,—the instant he is removed to the bench. My whole remarks applied to him while in his lower sphere,—in the mere human stage of his existence. He is now removed to that exalted state, among the blessed spirits who adorn the bench; he is above all censure of mine, as long as he falls not from

those ethereal regions. But I only referred to the acts of his former state,—the things done in the body,—when he sojourned among us clothed with the infirmities of our limited nature, and was amenable, like ourselves, to the bar of public opinion, and could be questioned and blamed without detriment to the sacred purity of the ermine that now clothes him and covers him from all attack.

But my Noble Friend (Lord Melbourne), charges me with violence—with acrimony—with undue severity against the noble Marquess. No man is a judge of the exact force and weight of his own expressions. I can only say that I had no intention to be violent or severe. I know that I omitted some heads of attack altogether,—heads much dwelt upon by members of the committee during our investigation. I know, too, that not one word escaped me which had not a close connexion with the subject,—the administration of justice; and this I well know,—that I abstained from numberless topics, numberless illustrations, which would have been used by me, had another person's conduct been the subject of debate. But, it seems, I have, elsewhere, praised the Noble Marquess; and therefore it is unfair in me, and unfriendly, to blame him, here. That the former praise may have been very friendly, I do not deny; but that this circumstance renders the present blame less amicable in its aspect, I do not clearly understand. My Noble Friend cites a note, published, as he says, under my sanction, and applied to a speech delivered in 1823, on the administration of justice in Ireland; and he seems, by his reference, to insinuate that there is some inconsistency in my now disapproving him, whose conduct I approved above a year ago. There is not the shadow of inconsistency, or anything like it, in this proceeding, even if you take into the account the panegyric bestowed in the note—and very sincerely bestowed—on the private and literary character of the Noble Marquis,—a pane-

gyric read by my Noble Friend with a mingled sneer at the author of the praise and its object. My Noble Friend really could not resist this, his besetting sin, of constantly holding cheap all men and almost all things. That is his way. Also, it is his way to bring out roundly, and sometimes roughly too, whatever passes through his mind. This it is, among other and higher qualities, that makes him so agreeable a debater here, and so delightful a companion elsewhere. The humour is his own, and it is racy and pungent. No respecter of subjects or of persons, out it all comes—no matter who is by, or whom it hurts. He gives mirth, and he shares it too, largely enough. It is generally one word for his audience, and two for himself; one laugh from them, and two from himself. So on he rolls, with his lively and careless speech, or his yet livelier and more careless conversation. Good sense and good humour are always at the bottom. No gall—not a particle of self-conceit—is anywhere to be found. If other men are little respected, he is, himself, never set up in any invidious contrast, but seems to be as little thought of as any of those he handles. Some startling paradox, to pass for profound and sagacious originality,—some sweeping misanthropy, to show deep and penetrating knowledge of human nature,—nothing can be more agreeable—though, very often, nothing can be less correct. And so it was to-night. The praise of his Noble Friend, which he laughed so much at, was very sincerely given by me, and I still think very well deserved by him. I have constantly repeated it behind his back,—and in quarters where the echo of any sound of it could never reach his ear. I defy all the persons who have ever heard me speak of him, up to the hour in which I now address your Lordships,—and they are not a few,—I defy them all to say upon what occasion I have ever said a twentieth part as much against him as I have felt compelled to do this day; nay, I defy them to say

what I have ever uttered, that was not kind and friendly; and whether I have not uniformly confined my charges against him to his conduct respecting justice and mercy, and, on that, limited my blame to an amiable and a venial indiscretion. I suspect the loud bawlers in his praise could not safely make the same searching and broad appeal.

But, from this topic, my Noble Friend, in a luckless hour, passed to a still worse—and that really did astound me. He sneered at the course of my public conduct; and indicated his disposition to withhold from it the praise of consistency, which I had openly claimed by a reference to thirty years' public life and upwards. Now, I repeat my challenge, to which I am compelled by the doubts which my Noble Friend, without any one attempt at particularizing, but wrapping himself up in mere vague and general insinuations, has chosen to ventilate. I defy him, or any man, to show the single instance in which my conduct has varied upon any one of the great subjects which divide statesmen, and agitate the world at large. I see around me, in all directions, abundant instances of men who have changed their course upon many subjects, and who have connected themselves with many parties in succession. I speak of them with all respect; their conduct and their changes have been, doubtless, directed by pure public principles, and never guided by personal motives. Nor while I acquit them, do I now, nor did I when I last addressed your Lordships, claim any merit to myself for what I expressly called—and what I really do think, in the various course of human affairs—a piece of good fortune, much rather than any desert. But the fact is undeniable, that, upon all the great questions which divide men's opinions, I have, ever since 1810, when I entered Parliament at an early age, been fortunate enough to hold precisely the same course throughout this long interval of time, without any exception or variation whatever. I have consistently supported reform,

—the abolition of the slave trade and slavery,—the Catholic question,—the reduction of expenditure,—the resistance of oppression,—the extirpation of abuses,—the reformation of the law,—the limitation of the executive power. Moreover, I have uniformly adhered to one political party; and if, at the end of this long period, I have found myself under the painful necessity of separating from my former political friends, it has been, not on personal but public grounds,—it has been,—it has notoriously been,—not because I changed, but because they have changed their course. When out of the Government in 1835, I zealously supported them; in 1836, I abstained from attendance, that I might not embarrass them; in 1837, I supported them on all but one question, when their conduct was a violation of liberty. But in 1838, when they abandoned their reform principles, and carried farther than ever the unconstitutional government of the colonies,—and still more in 1839, when they have utterly forgotten the very name, as well as the nature of Whigs, and consented to stand upon a mere court intrigue—a mere bedchamber quarrel,—against Parliament and against the people,—then, of course, my opposition became habitual, and I heartily desired the end of their reign. I will not deny that I desired their fall, when I saw them —with astonishment saw them—stand on the most Tory ground,—ground ever most bitterly assailed by them in their better days,—for the Tories always had the decency to cover over the nakedness of their courtly propensities with some rag of public principle, and spoke of danger to the church and the other institutions, when they really meant risk of the King being thwarted, and their own power subverted. But these Whig Ministers, under my Noble Friend, stripping off all decent covering, without one rag of public principle of any kind, stand before the country stark naked, as mere courtiers,—mere seekers of royal favour; and do not utter a single whisper to show that they have a single

principle in their contemplation, save the securing a continuance of their places by making themselves subservient creatures of the palace. To leave such guides, and such associates, may be very painful, from old habits and connexions; but, surely, it may become absolutely necessary to all who would not join them in leaving their former principles.* My Lords, I grieve to have so long detained you at so unseasonable an hour; and I only now recommend these resolutions to your immediate adoption.

The House then divided; when there appeared—

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* It was stated, both by Lord Howden in the House of Lords, and Sir W. Follett in the Commons, that Lord Grey took the same view of the conduct of the Government on the bedchamber question.

PERORATION OF SPEECH

ON

IMPRISONMENT FOR DEBT.

EXTRACT SPEECH ON

IMPRISONMENT FOR DEBT.

HOUSE OF LORDS—DECEMBER 5, 1837.

BUT, my Lords, there is one alteration in this measure, this just, humane, and in my conscience I believe, most politic measure, which the Noble Lord has announced, that I confess fills me with astonishment and dismay. I mean that provision which he is to introduce for the purpose of drawing a line of distinction and protection around both Houses of Parliament, and screening their members,—iniquitously, invidiously, and, to the community at large, insultingly, screening ourselves—from the operation of the law, and proclaiming that against us alone of all the people it shall be powerless. Are we indeed prepared to clothe ourselves with the proud prerogative of being law-makers and, therefore, law-breakers—of having the power to frame the law, and, by the possession of that power, contriving an enactment by which we retain in our own hands the other power of violating it with impunity—arming ourselves alone of all our fellow-subjects, with the privilege which both my Noble and Learned Friends have so justly described as the privilege not to do what every man ought to do, and what every honest man does? What, I ask my Noble Friend on the woolsack, is the avowed object of the compulsory clauses in his Bill? He has already answered me—he has said that their object is to compel all to do what all honest men do already without compulsion. See then in what an odious position he is

about to plant you—and that too by way of saving your privileges, of exalting you in the eyes of men, of enabling you to command the respect and win the affections of the people! You of all mankind are not to do, at least are not to be required to do, what those who propose this ill-advised alteration, in the same breath tell you every honest man does, and requires no compulsion to make him do. My Lords, this appears to me ominous of the fate of the measure. I think I see its destruction in this most inauspicious change which the Government have resolved to make upon its frame. So much upon its utter repugnance to the grounds of the Bill as stated by the authors of the proposed change. But what shall I say when, reminding your Lordships of the general principles of the whole measure, as I have already sketched them out, and as I presented them ten years ago to the Commons,* I recall to your recollection that upon those principles the address was presented to the Crown, and the Commission was issued, of which the first and most precious fruit was this measure? Mark well, I beseech you, the leading position which formed the ground-work of all those proceedings. It was the distinction drawn and persisted in throughout, between misfortune and crime—between honest poverty and fraud—between contumacious resistance of a just demand, and innocent, because unavoidable, inability to satisfy it—between the want of power and the want of will to do what my Noble and Learned Friend says, every honest man does freely of his own accord. That was the view which presided over this amendment of the Law—that, the origin of the Commission—that, the object of the Report—that, the basis of this whole measure, which is built upon that principle, that impregnable position alone. If that be not its foundation,

* February, 1828. This Bill was introduced on the Report of the Commission appointed in answer to the address then moved by Mr. Brougham.

then has it not an inch of ground whereon to rest. Then how are you following up this principle—in what manner are you applying it? The rule being, that every man who does a wrongful act—every man who is guilty of a fraud—every man who fraudulently conceals his property or fraudulently makes it away, or any how fraudulently traffics with it to cheat his creditor—all, in a word, who knowingly and willingly cheat their creditors,—shall be dealt with not as unfortunate debtors, fit objects of compassion, but as offenders, as criminals, just subjects of punishment—such being the whole pervading principle of the Bill, what is the course announced by the Noble and Learned Lord on the woolsack, as about to be pursued with regard to your Lordships? You, the Peers of this realm—the Aristocracy of England—the head and ornament of the State—whose honour is more esteemed than other men's oaths—who decide upon honour higher matters than others upon oath—you, who are not only the Peers of England, the Counsellors of the Monarch, the Aristocracy, the head and ornament of society, but the hereditary lawgivers of the empire,—and are desired to abuse your right as such, for the purpose, they tell you, of raising and aggrandizing yourselves, but I tell you, in order to lower, to debase, to stigmatize yourselves—you who are beside all this the judges of the land in the last resort, exercising the highest functions of the judicial office, supremely and without control, in all cases, administering both civil and criminal justice —what is it that you, clothed with these various powers, wielding all these lofty prerogatives, holding the whole law in your hands as legislators and judges, are about to do, with the purpose of protecting your privileges —of exalting your stations yet higher in the world—of amplifying your title to respect,—and of recommending yourselves to the love of your unprivileged fellow-subjects? Why, you are required to adopt a provision for enabling you to do that which I will not repeat in

such near juxtaposition to your names;—enabling you to do that by your honest creditors, which, if any other men were to do, you would, as administering the criminal law, be bound to visit them with punishment, as knaves, rogues, cheats, swindlers!

Now, let me see the man who will propound this clause! Let me see this alteration brought forward to cripple the Bill! But if it shall be brought forward, I pledge myself to give every one of your Lordships an opportunity, by your vote, of redeeming yourselves from the shame of such an act, by guarding yourselves against the stain—the foul and revolting stain,—attempted to be fixed upon your names!*

* Lord Chief Justice Denman and Lord Wynford joined in strongly reprobating the proposed exemption of Peers and Commoners; and no one defended it.—The debate had turned mainly upon the general question of imprisonment for debt, as discussed in the report of the Commissioners. The provisions of the Bill, as now introduced by Lord Cottenham, and as passed through the House of Commons last Session, are not at all the same with those of the Bill of 1835, supposed to have been prepared by the Commissioners.

SPEECH

ON THE

MINISTRY IN ITS PAST AND PRESENT STATE.

(BEDCHAMBER QUESTION.)

SPEECH ON THE

MINISTRY IN ITS PAST AND PRESENT STATE.

House of Lords—May 31, 1839.

Many considerations disincline and well nigh dissuade me from taking part in the present discussion, did not my zeal for the interests of the country overcome them all. The part which I have always taken with my Noble Friends near me; our general agreement upon great measures of policy; the habits of official intercourse, which, during four years, subsisted between us; the long and sincere personal friendship which has attached me to them, and still knits us together, unbroken by the accident of my ceasing to hold office with them, and unimpaired by the political differences which have severed us for the last two years;—all conspire to make silence desired by me upon this occasion. But my devotion to the service of the state,—my deep sense of the duty I owe to the people, to the Constitution, to this House, to myself,—a duty which I must discharge without regard to any personal feelings, or personal hazards,—compel me to break the silence which, until this hour, I have studiously preserved. The difficulties of my position, however, are greatly increased by the singular peculiarity of the situation in which the Government has now placed us,—a peculiarity not adverted to this day by my Noble Friend (Lord Melbourne), but which formed the only subject of his statements, and those of the Noble Duke, on the occasion to which he referred the

Noble Earl (Winchilsea), for what he flatters himself was a satisfactory explanation of the phenomenon in the political world, now presented in his person, and commented on by the Noble Earl. Mixed up with that supposed explanation, the statements of all my Noble Friend's supporters out of doors ever since that day,—all the ministerial members of Parliament addressing their constituents,—all the most powerful supporters of Government in both parts of the empire addressing large bodies of their fellow-citizens,—all, without exception, have combined to augment the difficulty of the present debate, to exacerbate the painful feelings of whoever, like myself, would take part in a question from which he cannot shrink. All those supporters have resorted to the topic I am speaking of: all their explanations, all their appeals, all their efforts to prop up a falling Ministry, have uniformly centred in one point, beginning, continuing, and ending in this one topic;—not any measure—not any principle—not any opinion—not anything done in Parliament—not any course of policy propounded by the Government—not any matter of concern to the people—not any one thing about which the Constitution at all cares, or at all knows,—but the name of the Sovereign of these realms, put forward as the only argument,—brought forth, tendered to the country as the only ground,—in lieu of all reasoning, in lieu of all explanation,—the private, individual, personal feelings of that illustrious Princess being made the sole subject of declamation at every riotous meeting after dinner, at every worser mob assembly during the day, in every harangue of every demagogue who has been enlisted in the service of the sinking Administration. The friends of the Government have nothing to say for themselves or their employers—no merits of their own to plead—no measures to promise for the future—no defence to make for the past;—all the cry they utter is the name of "Queen! Queen! Queen!"—all the topic they dwell on is the supposed

feelings of their Royal Mistress, the court difference, the Bedchamber quarrel about promotion; and, to sum up all in one sentence,—which may be fairly and impartially appealed to, for it came from a truly honourable and excellent friend of mine, but no kinsman or colleague, though the nephew and secretary of the Noble Viscount,—the event is announced as matter of ministerial gratulation that Sir R. Peel has, in the attempt to form a government, been defeated by two ladies of the bedchamber! I know how natural the feelings thus excited are to all men and all women; I know that appeals to such feelings are, in this country, never made in vain. But I also know—and in discharging a public duty I feel deeply impressed, not oppressed, with the knowledge—that the pains taken to place a false issue before the people make my present task trebly difficult, by exposing me to the hazard of giving offence elsewhere;—that the unfair, the unmanly part taken by the Government supporters has placed those, who are called upon to discuss a grave question of state policy—to consult touching the sum of affairs,—to argue upon the government of the whole realm committed to the Queen's care,—in the delicate, the painful predicament of at the same time discussing matters personal to the Queen; and of this I loudly and justly complain. Whoever gives his honest opinion of men and measures and public affairs, if he differ at all from my Noble Friend (Lord Melbourne), must encounter, in consequence of the issue taken by the Government before the country, the risk, the imminent risk, of being represented as making a personal, an invidious, an offensive opposition to the Sovereign herself. Knowing my own heart upon this subject, if upon none other,—convinced that no one of her Majesty's servants, the most devoted to her person and the highest in her favour—feels more profound veneration for that illustrious Princess than I do—that no one cherishes a livelier gratitude for those kind acts of condescension with which, from her and her gracious

family, I and mine have uniformly, without the slightest interruption, been honoured and exalted,—I can by no possibility harbour any sentiment towards my Sovereign which a man ought not at once openly and publicly to avow; and I also have the comfort of knowing that so much justice, so great kindliness of feeling, so inflexible a candour and integrity, sways the royal bosom as precludes the ordinary risk of my motives being misconstrued in the high quarter towards which the attempts to misrepresent have been all pointed. The attempt, the mean and dastardly attempt, to prevent public men from performing a public duty, will, I feel well assured, signally fail, in so far as it has been at work, by importing into this debate the private feelings of the Sovereign; and a plot, of which I am far enough from accusing my Noble Friends, but in which their supporters have joined, to deter me and others from doing our duty by the Constitution, will be utterly defeated. As far as it is directed towards the mind of the Queen it must fail, from her sagacity and worth; as far as it is directed towards me, I know it will fail,—for me it never can overawe or silence.

My Lords, I entirely agree with my Noble Friend (Lord Melbourne) that general avowals of principles by men exercising the powers of government, are not greatly to be commended for any purpose they can serve; and he has himself illustrated this position in his own practice. His avowal was, in truth, little better than nothing, for any information it gave of his intentions; it was a mere vague, fruitless, useless, worthless generality, and might have been made by any one man just as well as by any other. There was not a single word of it which I myself—differing on some most material questions from my Noble Friend—could not have used with perfect truth and entire consistency,—not one word which the Noble Duke, and my Noble and Learned Friend (Lord Lyndhurst), differing still more widely from the Noble Viscount (Lord Mel-

bourne), could not conscientiously have echoed. What is the Noble Viscount's profession of his principles? "I am friendly," says he, "to all progressive improvement." But when got ever any man up to say, "I am friendly to all retrograde movement?" Again, "I am friendly to all safe and useful reformation. Prove any measure to be beneficial, and attended with no risk, and I will support it." Will not the Noble Duke say the same thing in the same words? and yet he is so little of a Reformer, that he believes the old rotten borough system to have been the perfection of human wisdom, and conceives that, were he called on to frame a new constitution, he never could make so good a one, unless he made the same. Then, as to my Noble Friend's qualification of a proposition so scanty and equivocal in itself as to require no qualification at all, that qualification tells us absolutely nothing. "I refuse to give up my own conscientious opinion on important questions, for the purpose of conciliating any support." I verily do believe that anything more safe, more simple, more innocuous than this political *place-bo*, never was administered to any political assembly. My Noble Friend, at the close of his statement, left us precisely where we were at its commencement; and we find ourselves at a loss which most to admire,—the plainness of the question put by the Noble Earl (Winchilsea), or the utter insufficiency, the accomplished ambiguity, of the answer—if answer it could be called—given by the Noble Viscount. Touching the intentions of the Government, their present plans, their future conduct, he has left the House and the country just as ignorant as they were before he rose to speak.

My Noble Friend told us that the empire is surrounded with great difficulties — difficulties abroad and at home,—difficulties in more parts than one of the mother-country, and in more than one of our colonial possessions. On the 7th of May, he told your Lordships—as he has to-day done—that the

Government, in whose hands soever it might be placed, must find itself surrounded with various embarrassments; but yet that, among them all, there was not one against which a vigorous administration might not successfully contend. From his statement made on that day, I can see no deviation in his present statement,—although I perceived many of your Lordships appear to regard the two as different, and to fancy that he spoke otherwise of the difficulties, now he was again in office, from his view of them when describing the prospects of his successors. I do not consider him as liable to this imputation: but he went on to comment upon the Reform Bill of 1832; and he told you that there are many men, many statesmen of high authority, both at home and abroad, who think our new parliamentary Constitution under the bill, very well fitted for quiet times and fine weather, but likely to present a widely different aspect if the tempest should beat against its walls. They consider it, he says, to be a Constitution ill calculated for weathering the storms and the hazards of foreign war; still less fitted to carry us safely through the conflict of domestic troubles; and least of all likely to stand the shock of commercial difficulties. These have been told to the House by my Noble Friend as the opinions of others: I venture to guess, from the tone and manner of their delivery, that they are something like the opinions to which my Noble Friend himself leans. But I differ widely from him in this matter; I concur in no such views of the character and the merits of our existing parliamentary system. On the contrary, after reflecting as deliberately and as deeply as I am capable of doing on any subject, I hesitate not to declare at once that I entertain no doubt whatever of the perfect adaptation of the new system to meet any political crisis, any season of danger or embarrassment with which we may be visited. I feel no hesitation on these points,—I give way to no apprehension,—I experience no alarm whatever. It is my clear and de-

liberate conviction—(and if I had not so believed, I never could have consented to the change in 1831 and 1832, much less promoted it)—that if the altered Constitution is fit for the calm, it is yet better suited to the tempest; if the vessel can ride the more safely in smooth water since the repairs she then underwent, they were still more necessary for enabling her to bear the storm. Her being made more tight in her rigging, better trimmed, better manned, and by a more contented crew, sounder in her timbers, more secure and more seaworthy in all her fabric, far from rendering her less fit safely to ride through the troubled waters, must make her more powerful to defy the strife of the elements. To establish the House of Commons in the confidence of the people; to enlarge the basis of the Government, by giving the community at large an interest in its welfare; to gain for the whole system the cordial support of the whole people;—these were the objects of the change happily effected. The vessel has undergone a thorough repair; not unnecessary for her security in the fairest weather, but in the stress of wind and wave absolutely required to give her a chance of safety.*

I know not that my opinions upon this matter are shared with the bulk of your Lordships; I am uncertain if a majority be not disposed, with my Noble Friend, to think unfavourably of the Reform Bill; I even fear me, from the ominous silence of the Government supporters who surround me, that they, too, share his apprehensions, and think very differently now of the measure which, in 1832, they so zealously helped us to carry; as if they deemed the Reform only a thing to serve the purposes of the hour, and then to be laid aside. I seem, at this moment, to stand single and solitary, even among the former friends of Reform, who, some seven or eight years ago, were the

* Striking illustration of this was afforded by the 10th of April, 1848. The authors of the Reform might name this date, and say,—"*That is our case.*"

loudest seconders of the great measure, but have now sunk into silence when it is either attacked or defended. To stand thus alone upon great questions in your Lordships' House, is anything rather than novel to me, however unpleasing. It is a situation to which experience has accustomed, if it has not reconciled me. But I feel the satisfaction of knowing, that if I have sometimes been opposed by one portion of your Lordships, without finding support from the other, as on the great constitutional question of Canada, and on the subject of Slavery, many who then deserted, and even some who then opposed me, have since become convinced that they took a wrong course, and now regret that they suffered me to stand alone.

Upon the statement of my Noble Friend respecting the difficulties of the country, both at home and abroad, there is no possibility of differing with him. Neither can there be a doubt as to the inference which he drew from such considerations,—that no ministry can contend with these most serious difficulties, unless it possesses the confidence not only of the crown, but of Parliament. And this statement of my Noble Friend, in which I entirely agree, brings me round to the question put by the Noble Earl (Winchilsea)—not yet answered in any way—the question raised by the statement of my Noble Friend, on the 7th of May, that the ministry had lost the confidence of the Commons. He had, then, by his own confession, the confidence of neither House:—he had lost that of the one; that of the other he never had to lose; that of the country he laid no claim to possess, else he must have appealed to it: so that without the confidence either of Parliament or of the country, the want of which made him resign on Tuesday, the 7th of May, he told us, on Tuesday, the 14th, that he had resumed the government; but without telling us why, or what enabled him to carry it on better than he had been able to do a week before. The state of public affairs was not less encumbered with

difficulties; and yet he resumed a station in which he had, a few days before, professed his inability to contend with those difficulties. Upon his resumption of place, he asked Parliament to adjourn for ten or twelve days. Many thought such a proposition, in the middle of a session, and in the circumstances of the public business at the time, to say the least of it, very much out of the ordinary course of events. The usual recess at this season is two days, and the birthday makes a third; and yet the Government proposed an adjournment of near a fortnight, which was acceded to. It might be naturally enough supposed that this time was asked for the purpose of considering the construction of the ministry, or the frame of its policy. They had lost the confidence of Parliament so entirely as to make resignation necessary. Some might think that subsequent occurrences required them to resume office; but then, as their difficulties in carrying on the public business were as great as ever, every one had a right to expect that some change of measures was in contemplation, in order to carry them over those difficulties. But no such thing; the adjournment was employed in no deliberations of the kind. How was the time spent? It does so happen that it was used—I do not say by my Noble Friends, but assuredly by their supporters—in attempts to raise a clamour; in appeals to multitudes a thousand times less informed than themselves upon the topics addressed to the public; in efforts to work upon the credulity and excite the passions of the mob, by the most scandalous misrepresentations of some ministerial advocates, or the propagation of the gross delusions in which they shared. The time gained by the adjournment was thus employed; and the chances were taken that, by the effects of such arts or such errors, the Government might regain some portion of the favour which it was hoped they had only temporarily lost. I repeat, that I charge not my Noble Friends with this course; but that their supporters

have used the interval for such purposes, there cannot be the shadow of a doubt. The combat has been carried on in different parts of the country with various success; but I never knew a political outcry raised with such a signal failure; nor remember any such attempt to get up clamour more utterly and universally unsuccessful. The different degrees of failure through which the speculation passed, from its commencement at Liverpool to its termination in London, have been noted by all observers.

How it should anywhere have had even the least success, may be explained by the means resorted to. At Liverpool, a person described as "of great note," arrived from town, and did not scruple to tell the people that the ministers had flung overboard the principle of finality; that my Noble Friend (Lord Melbourne) had conferred with the Reformers; and that he had fully satisfied them of his intentions to adopt a new line of policy. On the faith of these representations, an address was voted to the Queen. "Let the ministers, however," said the men of Liverpool, "only disappoint our hopes once more, and then you shall see what you shall see!" Now this person, who arrived from town, may be one of great note, for anything I know; but he is, assuredly, a personage of most unbounded credulity, or of most inventive fancy. Anything more completely unlike the truth than the tale he told, never was dreamed by mortal man. My Noble Friend, no doubt, saw a deputation of Reformers; and he, no doubt, heard their demands; but instead of satisfying them with his answer, he gave them no answer at all. I know not if he yet has answered them: I know, for certain, that at the date of the meeting, and of the address, and of the story told by the "man of note," he had given no answer whatever; and that the Reformers were then, as they are now, as much dissatisfied with the Government as men could be. If my assertion stands in need of confirmation, this is to

be found—amply found—in the speech of my Noble Friend this day; which, instead of giving or affecting to give us any satisfaction, is as discouraging as words can make it. The like attempts were made elsewhere in the north,—in Yorkshire, in Northumberland, in Cumberland; and I have it from a kinsman of my own, just returned from thence,—a good, regular, moderate Whig,—who only confirms the accounts of all my correspondents, that nothing more complete than the failure was ever witnessed.

But do I ascribe this to any lack of zeal on the part of the ministerial advocates? Far, far from it. That has been everywhere largely manifested; it has almost everywhere given rise to gross mis-statements of fact; occasionally it has sprouted up in calumnies so despicable, so ridiculous, as never have been surpassed. In surveying the sad effects of heated imagination, the havoc which such extravagant zeal, such infuriated party rage, has made in men's minds, it is painful to observe that, in some families, common sense, common reason, and common charity are no longer hereditary possessions, — families illustrated aforetime by the strongest sense, the finest reason, the kindliest charities of our nature; joined in a characteristic union with the transcendent genius and spotless integrity that gave the name of Henry Grattan to shine with such surpassing lustre. Let me depart from the painful contemplation of what could only proceed from the excitement of the hour, or from infirmity of judgment or of temper. But what shall I say of those who have no historical recollections to fall back upon—no present fame to support them—no palliating circumstances to plead? For such our pity is not so easily awakened. Of such, I confess my surprise and regret that my Noble Friend has not anxiously seized the earliest opportunity for expressing his reprobation. I marvel and I lament that he has not been eager to relieve his mind of the indignation with which his bosom must be heaving, and

give vent to the feelings of a manly nature, with which I know he now is bursting. I will tell him that the country looks to him for such disclaimer of such supporters. If he yields to them any longer, he will be rejected by others; if he consorts with them, he will be abandoned; if he truckles to them, he will be despised; if he promotes them, he will be opposed; if he defiles the bench with them, he will be impeached. Let him refuse any longer to pay the bad price, the heavy price, of such support; let him pursue the better and the more honest—he will find it the easier and the safer—path. It lies plain before him. Let him seek the approval of all good men, and he will gain it; but he must prefer the enmity of those others to their friendship; dread their hostility less than their alliance; welcome their foulest abuse, rather than their most fulsome flattery; deem their slaver more perilous than their tooth.

I will now revert, however, to the twelve days' adjournment. We have arrived at the 31st of May, and things are precisely in the same situation as they were on the 7th. I wish, indeed I could flatter myself with the hope of seeing the doctrine of finality abandoned, and such principles avowed, and such measures carried by the ministry, as might enable me once more to co-operate with my Noble Friends. I was betrayed into some such expectations,—in the absence, I readily confess, of all other grounds of confidence—by conceiving that the state of public opinion, and the conditional support lately given them, would have led to a change in their policy. It is idle to affirm that the feelings and the opinions of Lord John Russell present the least obstacle to a consummation so devoutly to be wished. It is much more idle—it is worse than idle—to throw upon my Noble Friend (Lord John Russell) the blame of the finality declaration, as if he were less friendly to reform than his colleagues. If there is a good reformer, and a stout, in the cabinet, it is Lord

John Russell. Not a man that knows him will dissent from this position. To pretend that he alone was the author of the declaration in November, 1837, which has given so much pain to reformers, is pretending what nobody really believes. It may suit the purposes of some to affect such a belief; but no one seriously entertains it. Why, if the other Ministers did not concur in the declaration, did none of them give the least token of dissent? Why did they not disclaim, and protest? I affirm, on my own knowledge, that they all, without one exception, approved of the finality declaration, and joined in it. I affirm it upon information directly received from the Ministers themselves. Those present in the Commons heard it made one day, in mere silent acquiescence; in silence heard it attacked and deplored; heard it next day repeated, and made no sign. To those who sit in this House I gave a similar opportunity of disclaiming their noble colleague, if they could. I over and over again avowed that it formed my only cause of opposing them—my only ground of difference with them. Not a word was said. I then distinctly asserted, that it was the principle of the whole Government, and not of one member alone. Not a whisper was heard, in public or in private, to gainsay this plain and direct assertion of fact. It was, therefore, the doctrine and the plan of the Government, as a body. Hence no obstacle to giving up the doctrine could arise from Lord John Russell individually. But I had hopes, to which I still did cling, that a progressive policy would have been adopted, under the pressure of the circumstances in which the administration was placed after the resignation was revoked. All such hopes have this day been damped and dashed by the tone of my Noble Friend (Lord Melbourne), and by the unmeaning generalities in which he has studiously wrapt himself up.

Those hopes are still further dashed by finding that

the new Government has been placed upon a foundation altogether different from any on which a Whig Government ever before reposed. Never before did I know, never did I hear, of a Whig Government establishing itself upon a bedchamber question,—resting its whole claim to the support of the country upon its care for the personal feelings of the monarch. The Ministers are resolved, it seems, to stand by their Sovereign, attacked, as they represent, from other quarters: they fly to her Majesty's support; run to rescue her from her enemies, those enemies of crowned heads, the Tories; and they, the Whigs, will now rally round the throne! In order to recruit their ranks in this loyal campaign, the grossest falsehoods are put forth, without any stint or any shame, that I ever yet heard of in any political controversy. First, it is said that Sir R. Peel attempted to deprive the Queen of all the ladies usually forming her society, attending on her person, and composing her household. Nothing could be more false, except another of the stories fabricated on the occasion. The utter falsehood of the tale I have mentioned was at once detected; and when exposed, the Ministers admitted that an entire misapprehension had arisen, and had caused the gross mis-statement. But then came the other and yet more scandalous falsehood. "Only think!" it was said, "these politicians, wholly void of feeling, would take from the Queen the friends of her infancy and youth, those who had tended her from the cradle, watched over her earliest years, nursed her in sickness, rejoiced over her returning health, solaced her sorrow, shared in her happiness;—all—all these, her old and constant companions, were to be rudely torn from her, and our amiable Sovereign was to be left utterly alone, helpless and friendless!" Now, her Majesty is twenty years of age. During how many of those years have the ladies, whom it was within the scope of possibility that a Tory Ministry should dismiss, tended her in sickness, rejoiced with

her in health, been her chosen companions, composed her private society? Just two years wanting a month; leaving eighteen years unaccounted for, during which not one of those ladies ever approached within miles of her Majesty's person, or had made their existence known to her! This is the notorious fact: and yet, if the feelings of one man, one woman, one child, have been excited against the Noble Lords opposite, and in favour of my Noble Friend, by the general statement, or rather gross mis-statement, of Sir Robert Peel's negotiation, the indignation of a hundred men, a thousand women, and ten thousand children, has been roused, and their sympathy engaged, by the fabricated tale, which brought home to every bosom the royal sufferings inflicted by the rude attempt to tear away from a young and lovely Princess the cherished friends of her earliest years! The whole turns out to be a vile and audacious falsehood—a fiction without even the shadow of foundation. No man will have the courage—the effrontery, let me call it—to stand up in this house and assert, in the face of your Lordships, one tittle of this romance about attempting to exclude from the Queen's society one single individual whom she had ever seen beyond two years ago.

But it may be asked, why remove even those whom her Majesty has only known within the last two years? Why not allow the lady of the Noble Marquess (Lord Normanby), and the sisters of another cabinet minister, my Noble Friend the Irish Secretary, to continue in the royal household? For anything I know, they might have been permitted to remain. All that was stipulated for was the power of removal, if essential to the public service. The objection made to this is, I confess, beyond my comprehension: the ground taken by the Government, and defended elsewhere by an appeal to precedents in the reign of Queen Anne and the time of the Mashams, I cannot reconcile to any view of the constitution, speculative or practical. Shall it be said

that the sex of the court office-bearers exempts one most important class of them from the general rule, which forbids a division or a conflict in the different portions of the public functionaries, and prohibits the influence of the Sovereign being used to obstruct the measures of the executive, to counteract the policy of his own Government? Must we, now, substitute for this rational and wholesome maxim some new method or grotesque arrangement, by which, while one set of men are in office, another set in opposition to them shall have their wives in office also, to counteract their ministerial antagonists? A strange doctrine, truly, to promulgate, and in the year of grace 1839; and by those same Whigs who, in 1812, refused to take office because the father of my Noble Friend opposite (Lord Hertford) was chamberlain! It is true that he conveyed to us, through a common friend (Mr. Sheridan), the resolution formed to resign the instant a new ministry should be installed; but this communication was not made till too late, and till after the negotiation was broken off. It seems the fate of these household discussions to be attended with constant misapprehension, and to involve all concerned with them in ridicule and discredit. Doctrines, however, are now broached, which in those former days we never dreamed of. The plan now is, that the men go out, but the women remain. The meaning of a ministry resigning now-a-days, is, that the husbands retire, but leave their wives; half step out, the better halves stay in; and the usual formula, almost a technical expression, used by them that resign, when they say, "We only remain in office until our successors can be appointed," must henceforth be understood as signifying this,—"We only remain in office until our wives and sisters can succeed in preventing any successors from being appointed but ourselves." It is really a most painful thing to be thus speaking of ladies at all in a public debate, or to discuss a question in which they are mixed up. But their posi-

tion and their fortunes have become a matter of state. Ladies of the bedchamber are now made public functionaries; they are henceforth converted into political engines; they are made the very pivot upon which the fate of a ministry turns. No longer can a government be formed as the wisdom of Parliament prescribes; the ladies of the bedchamber stand in the way of those statesmen to whom the legislature has given its confidence. Those ladies have ceased to be the mere companions of the monarch's social hours; they are made state engines; they are become statesmen, though not clothed in masculine attire; and their power and their persons stand between the desire of Parliament and its gratification. But for this portion of the case, and the frightful perils in which it threatens to involve the constitution, I should not have felt it necessary to break the silence which I so much more willingly observed when last these painful matters were before the House. But the question is eminently of a constitutional kind —grave considerations are mixed up with it—important constitutional bearings appertain to it—many and serious consequences result from it. Entertaining a much stronger opinion in favour of monarchical government than my Noble Friend represents King William to have done,—regarding it entitled to a clear preference in the present state of society, and for a people of our habits, when contrasted with other forms of polity,—I would willingly be spared the necessity of comparing them upon the very point which seems weakest in kingly, and strongest in republican government.

Differing, however, with my Noble Friend, and his Whig authority on this, in one position I entirely agree with both; I hold that a monarchy so hampered by public distrust and dislike, as to be incapable of carrying through the measures necessary for the public safety, is a scheme of polity so bad as hardly to deserve the name of government. It follows that a ministry which has not the confidence of Parliament

is incapable of serving a monarch; and that the present ministers were well justified in resigning three weeks ago. The confidence, or the favour, or the choice of the Sovereign, is nothing in this case, after the approbation of parliament is withdrawn. If the two Houses both agree in distrusting the Government, it is, constitutionally speaking, at an end. If they differ from each other, it is equally constitutional to remove the Government because it has not the confidence of both. But, at all events, if the Lower House withdraw its confidence, even should the Upper continue it, the remedy is clear; the country must be appealed to by a dissolution. Suppose the Lords cling to a ministry of whom the Commons disapprove; if the Sovereign, whom I can on no view of our mixed constitution regard as a cipher, shall adhere to the Lords and the ministry, in the exercise of a sound discretion and a deliberate judgment, not through any personal caprice or predilection,—then the course is to dissolve; and if the people continue its confidence in the same House of Commons,—that is, if the new House again disapprove of the ministry,—the Lords, according to our mixed constitution, must give way, else the monarchy is only mixed in name, and the government only popular in name, nor can we any longer be called a free people. That, however, is far indeed from the position in which we now are. If the doctrines of royal will and pleasure which we now hear preached,—and preached by Whig teachers,—be true, then has every vestige of a free constitution vanished from among us. For there is, now, no difference of opinion between the two Houses. Neither of them has any confidence in my Noble Friend's government. Both desire a change; by both he is abandoned: of the one he confesses that he has lost the confidence; the confidence of the other he has only not lost, because he never had it to lose. He has still the confidence of the Sovereign, and that is all. But so he had the same royal confidence on the

7th of May, and in the same degree. On that day it was deemed of no avail to set it against the disfavour of Parliament; and therefore he then yielded to the will of Parliament, and resigned. Upon what conceivable ground can the royal favour be reckoned so much more valuable on the 14th, that he should, without any other advantage in this respect than he possessed the week before, resume his office in the teeth of Parliament, whose confidence he cannot pretend to have in any the smallest degree regained? On the 7th, he was unable to carry on the public business because Parliament was against him, the Crown being for him. How can he, on the 14th, pretend to carry it on, with the Parliament just as much against him, and the Crown not more for him? That is the question which has been put this night, here,—the question which is put by every reflecting man all the country over,—the question which, to this instant of time, remains wholly unanswered.

Is it, then, come to this, that Parliament and the country—the wisdom of the one, the wishes of the other—must yield to the caprice of the ministers? I have a right—though I will not exercise it—an undoubted right to speak of the caprice of a monarch; because the individual may be so misguided as to let personal feelings sway his public conduct. But Parliament can have no caprice; its will is synonymous with its wisdom; and we can know nothing else in the deliberate resolutions which it forms, and by which, after being advised or re-elected by the people, it abides, or which the Crown, by not venturing to dissolve, confesses to be of an opinion consonant with that of the country. I am speaking of the general case only, when I say that the inclinations of the monarch may be the dictates of whim or caprice. To the present Sovereign this language would be wholly inapplicable. I have had the honour of knowing the character of that illustrious Princess from her earliest years; and I assert, without any hesitation, that there never was a person-

age, in her exalted station, whose nature was less perverted, whose sound judgment was less warped, by personal caprice. But the soundness of the new principles now first broached respecting the extent of the royal authority, and the duty of yielding to the sovereign's individual feelings, must be tried by their application in all cases,—in the instance of a pampered, spoilt, selfish monarch, as well as in that rare case, which now happily exists, of a sovereign incapable of such folly. See, now, the lengths to which these strange and uncouth principles of non-resistance are carried. If your Lordships can suppose the monarch to say, "I care nothing for the House of Commons, nothing for the House of Lords, nothing for the country,—not a rush for all put together; I set all their wishes and all their deliberations at defiance; and I insist upon keeping those ministers whom all require me to remove, because I will not part with two of my bedchamber women,"—if your Lordships can stretch your fancies so far as to make this supposition,—then you will be supposing exactly that posture of public affairs which we are told is the present case of the existing Government; and told it, if not by the ministers themselves, at least by all the supporters of that government. Indeed, this is the case made by themselves; it is quite in vain to deny it. This is their case—this their representation—when stripped of all the exaggerations and the falsehoods which their advocates have engrafted upon their statement. This is the real, unmingled, unadulterated exposition of their constitutional principles, the guide of their constitutional conduct, which my Noble Friend himself, in substance, has laid before you, though in terms he may be afraid of propounding it. This is the novel, the uncouth, the portentous, the monstrous description of our free and popular constitution, which the Whig Government of 1839 has given to the Reformed Parliament of England. I had always been dreaming that I was the inhabitant of a country ruled by the

prerogative of the crown, and the wisdom of parliament,—a country in whose government the will of the legislature was everything, and the personal feelings of the prince nothing—or a thing absolutely never to be named,—to be named, doubtless, in connexion with the personal comfort of the sovereign, and treated with all imaginable respect, delicacy, tenderness, on all occasions in which mere individual concerns are in question; to be dealt with most kindly, deeply venerated, touched with a cautious, a tender, a trembling hand, —but never, for an instant, allowed to interfere with the sober judgment of parliament, to countervail the interests of the country, whose trustee and whose servant the monarch is, to vex and to dash the councils of the government, to sway the arduous state affairs of the realm. This, I know, is the language of the constitution of England. If it be not, then let us change the title of our government with its principles; and say at once like honest men, that we no longer live under a limited but an absolute monarchy,—a despotism clothed in the forms of a representative government, in which the prince has become the sole depositary of power, the constitution a name, and parliament a pageant—a useless, an insulting mockery. Little did I ever imagine, in former times, that I should live to see this day; that I should, in this advanced period of our history, have to argue such a question as this—and argue it, not with Tories, the descendants of the Noys and the Filmers, but with Whigs, the disciples, nay, the descendants of Locke, the partizans and the kinsmen of the ministers of 1812,—rather of the men who would not then be ministers, because they loved the liberties of the people and the rights of parliament better than the favour and service of the crown. I little dreamed of living to hear it said, by the Whigs of the nineteenth century, "Let us rally round the Queen! Let us think only of her! Never mind the House of Commons! Never think of measures! Fling

principles to the wind! Abandon opinions! Let pledges lie unredeemed! Disappoint, desert, quarrel with your supporters in both Houses! What signifies Parliament? For God's sake stand by the throne! Regard only the Princess who fills it; and whatever pleases her, let that be the law of the land!"—I am old enough to recollect the reign of George III., and the beginning of the Regency, as if it were yesterday. I can well remember that ancient Sovereign who had swayed the sceptre of these realms with undiminished popularity for half a century, or rather with a popularity increasing as the number of his years increased, and the load of his infirmities accumulated. I remember the use then made of the people's love for that Prince; and how we of the Whig school, ever regarded with the utmost contempt and scorn the courtly principles of the Noble Lords opposite, evinced in their attempts to cover all their failures, and compensate all their neglects, by appeals to the name of the "good old King." If the foreign policy of the country broke down, if the misconduct of the war involved us in peril, if its expenses weighed us to the dust, "Oh! never heed," the Tory cry was, "never heed; but think of the good old King!" If the disastrous campaigns of 1809 crushed our last ally, and our own imbecility destroyed our finest army in the marshes of Walcheren,—still the appeal to loyal feelings was heard—"Think of the good old King, bending under a load of years, broken down with infirmities, venerable for his great age, who has reigned over you half a century, the jubilee of whose accession is celebrated this very October!" These were the courtly topics of those times; but not used by Whigs! No. If ever there was one thing more condemned, more ridiculed, more abhorred, more scorned, by all Whigs, as base and hypocritical, it was that topic of the Tories. For we knew full well, what "good old King" meant all the while: it meant "my good old

pension; my excellent old place; or the excellent place in which I have grown old;"—and when we heard those adversaries of ours, whose creed and whose language we have this day adopted, cry out, with such fervour of loyal devotion, "God save the King!" we read it as "God save my gains!"—that the wish for a long-lived king meant a wish for a long-lived ministry, who can bestow an ampler pension, and promote to a better place. I well remember Mr. Tierney saying to the minister of those times, who was one of the most choice samples of this kind of loyalty, when he had been drawing some argument from the King's personal feelings into the Regency debates—"Now, to-night he is talking of the good old King; in a little while, if anything befalls his Majesty, we shall hear of nothing but the 'good young Prince;' and if the Prince of Wales were unhappily removed, it would then be the 'good and interesting young Princess.'" Those very words I now hear in the mouths not of the unconstitutional Tories whom Mr. Tierney was then ridiculing,—the politicians who might, with some kind of consistency, use them, because they hold the King to be everything in our monarchy, and consider the government made for him; but it is by the Whigs that we now hear this high Tory language used,—the Whigs, according to whom the King is made for the country, and sustained as its servant and trustee.

But this abominable doctrine, and the position in which it has placed the country, gives rise to the most serious apprehensions for the interest of the state. It imposes upon us a Government without the confidence of Parliament, and unable to conduct the public business. It inflicts—it professes to inflict—the highest detriment upon the country, because the Queen refuses to change two ladies of her bedchamber, and the minister stands by the Queen. But can he restore to himself the confidence of Parliament by standing by the Queen? Will the House of Commons change

their opinion, all other things remaining the same as they were on the 7th of May, merely because there has been a bedchamber quarrel, and the ministers have taken the Queen's part in it? I don't believe a word of it. I must believe the Commons to be a body of rational men, representing a rational community; and that this court squabble can make no kind of difference in their dispositions. Then, can the bedchamber scene have won back the confidence of the country? Impossible! The attempt has been made, and made without scruple as without shame, to palm upon the people the grossest falsehoods, with the view of appealing to their strongest feelings, the feelings most easily roused,—and the trick has signally and utterly failed. Nothing but a change of measures —a recurrence to liberal principles—can ever win back to the ministers the confidence which they have lost.

Then, see the posture in which the Government stands, and with it, the most important business of the nation! First, we have the Jamaica bill; a measure of such importance, that they staked their existence upon its success, and, failing to carry it, made its loss one ground of resigning. This measure must, therefore, have been well considered, and preferred to any other, on grounds of apparent necessity. Are they to bring it forward again? No such thing; they have substituted another in its room. But is their opinion at all changed? Not in the least particular; the Under Secretary for the Colonies avows that he remains of his former opinion, and announces the new plan as one which the ministers think wrong, but must propose, because having lost the confidence of Parliament, they cannot carry the right one. But if it was right to propose the other scheme, it is wrong to propose this; and if the ministers believed they were doing what was right before, they must know that they are doing what is wrong now. If they were right in trying the

right measure, they are wrong in abandoning it, and taking to the wrong measure. "Oh, but," say they, "what signifies that, or any mere measure?" The colonial policy of the Government, the interests of Jamaica, the adopting one grand plan of administration, and giving up another,—all is now entirely changed—circumstances are completely altered. Where? How? In what particular? In Jamaica or what other quarter? In the bedchamber! All the course of affairs, all the policy of the state, has undergone a revolution, because of two ladies of the bedchamber! That is the argument; and it is plainly and openly avowed. It seems ludicrous when stated in its simple form, unmixed with cant and with falsehood: but the ridicule is no fault of mine, it belongs to the subject; without exciting laughter, the argument cannot be stated, and I, who deal with it, who expose it, am not chargeable with handling in a ludicrous way a very serious matter. The gross, the outrageous absurdity of the doctrine propounded, and the paltry meanness which forms its very essence, render it quite impossible to tear away the flimsy pretexts that have been flung round it, without displaying it to the eye in a form as laughable as it is hateful.

But see the consistency of my Noble Friend! He won't adopt any measures in order to gain support. He cannot reconcile it to his conscience to take popular courses for the purpose of strengthening the hands of the Government. Why? Because other measures, other courses, appear to him more fitting. Then why does he give up his more fitting Jamaica bill, and take up a measure which, in his conscience he disapproves? Contrary to their conscientious conviction they abandon one plan and adopt another, when the question is about remaining in office; but when the question is about having strength enough to carry what they believe the public good requires,—such

strength as is absolutely necessary for their existence, if they would be a Government in anything but the mere name,—oh, then, they will do no one thing to satisfy the country, or conciliate its representatives. They alter their course on Jamaica. Why? Because their opinion is altered? Because their consciences have become seared? Because they have been stretched since the 7th of May? Nothing of the kind; but all because a squabble has arisen at court about two bedchamber women. Then why not let the same dignified and constitutional course work usefully for the people, when it has done such wonders for the ministers? Why not bring under the same head their declaration of finality, and let the faults of the Reform Bill be mended?

But Jamaica is not the only subject which has been deeply affected by the late court cabal. We have heard something of another colony this session, as well as the two last; not much, indeed, of late; but the subject was deemed so pressing that it formed a part of the speech from the Throne, and was afterwards recommended to Parliament in a royal message. Yet this pressing subject would seem also fated to be laid aside. I asked my Noble Friend a question respecting it some nights ago, and his answer was remarkable:—"A measure," he said, "is prepared, and will be brought forward, unless circumstances occur to make it desirable that it should not be introduced." Does not any man see, with half an eye, what kind of circumstances those are which may make a postponement desirable? Who is simple enough to suppose for a moment that they have any connexion with the measure? It is not the circumstances of the colony, or of the mother country, that he expects to change; but the circumstances of the ministry,—the intrigues of the bedchamber,—the prospect of being able to weather the storm better by legislating for Canada, or by leaving Canada out of their plans altogether. That will decide the question:

if they dare venture upon it, they will try a bill: if they can better keep in place by letting a bill alone, the Canada Bill and every other will rest on the shelf.

There are other subjects of pressing importance, which must all share the same fate. Ireland claims especial attention at this time; though I must undeceive the Noble Earl (Winchilsea), who thinks that there is some connexion between the Ribbonmen and the Chartists. There cannot be anything more groundless than this notion: it is really a mere dream. We have been sitting for many weeks in the Irish Committee, and I don't mean to deny the existence of Ribbonmen and their plots; but I confidently assert that with the Chartists they have no kind of connexion; and I very much doubt if the two bodies know of each other's existence. But who can doubt that to govern Ireland with success requires, now, the steady hand of a firm and vigorous Government? If, indeed, you mean to let that country govern itself, and leave it without any rule at all, it signifies little how weak the hands of the administration may be, how little support they have from Parliament or the country. Look, however, once more, at your colonial affairs,—part of the great difficulties which my Noble Friend describes as surrounding the Government. Will his ministry be the better able to negotiate with the colonial assemblies, in order to execute the emancipation law according to its spirit, when those bodies perceive that the Jamaica bill has been defeated? Even in Jamaica, will my Noble Friend have a better chance of making the Assembly take to his second bill, when they see that he has been driven from his first? Will the victory the Assembly has just gained render either that body or the other island legislatures more submissive, more tractable? Is a Government which has publicly enacted its own self-stultification, by confessing its loss of public confidence, abandoning the measures it approves as the

best, and adopting those it thinks the worst, the Government most fitted to overcome, by its authority, the turbulent vestries of the West Indies?

My Lords, I have scarcely adverted to the perilous position in which all the bad principles now openly patronized and proclaimed are placing the monarchy; and this forms the most alarming consideration of the many which the question presents to us. For the first time in the history of this country,—certainly for the first time since the Revolution of 1688,—it has now been avowed,—openly and publicly avowed—by the liberal party, by the constitutional party, avowed—by the Whigs of 1688, by the liberal reformers of 1832 avowed,—that the Crown is everything, Parliament and the people nothing. On the 20th of December, 1837, in the debate on the civil list, when I professed how averse I was to the constant use of the Queen's name, which had become so habitual among my Noble Friends and their supporters, the Noble Viscount made use of an expression remarkable enough, when contrasted with his present position. Speaking of the proposed provision for the Crown, he said he trusted he never should see the day when the resources of the Sovereign should be put forward as a substantive and independent part of the monarchy, and brought into collision with the influence of Parliament. My Noble Friend has well nigh lived to see that day; for we now have the Crown on one side, with its ministers, while Parliament and the people are arrayed on the other; and the Whig ministers, under my Noble Friend, counsel the Sovereign to stand against the country, and tell the country that its wishes must go for nothing. It is the very first time that we have seen England ruled upon such principles. For the first time she displays to Europe and the world the spectacle of an administration assuming the conduct of her affairs, backed by the personal favour of the Monarch, and opposed by the rest of the state. Whether this unexpected and

novel sight is calculated to maintain our influence with foreign nations, to give our negotiations vigour, or to raise us in the estimation of our neighbours, I need hardly stop to ask. But those foreign powers must also perceive that the present state of things cannot last long. When they see that it must speedily have an end, unless the policy of the government is changed, —that parliament, in the result is quite sure to prevail,—that the ministers, if they cannot, by new measures of reform, gain back their former adherents, must give way, and leave others to form a vigorous and well-supported administration,—I should like to ask my Noble Friend the Foreign Secretary (not in this House), with what chance of success he can hope to carry on any one negotiation, be it upon ever so pressing a subject, with any other nation? or what trust any other power can repose in his representations or his promises, or what alarm feel at his menaces, when the days of his ministerial life are manifestly numbered?

But the greatest danger of the whole, and the worst consequence of the bad principles, now first acted upon, regards the monarchy itself. I speak not merely of its character and renown over the whole world,—of its fall from the high estate in which it once stood, as the light to guide all free nations, and all nations desiring to accomplish their freedom;—these, indeed, must now be astonished to witness our degraded condition, when they mark that they no longer can view in us anything but the subjects of an arbitrary government—no longer see, in the practice of our constitution, anything but a beacon to warn, that they may avoid our course. But I speak of the new risks to which the monarchy itself must be exposed from this exorbitant demand made upon its powers of self-preservation, and this load of odium under which its character is laid. And, first, let me say one word touching

the illustrious personage who has so often been alluded to in these discussions. I deeply grieve that her Majesty should ever have been placed in this position. It is no fault of Parliament; Parliament has spoken fairly out. Neither is it any fault of the Queen herself, inexperienced as she must needs be in public affairs, and in court intrigues, at her tender age. But it is the fault of those around her, that they have not informed her of the ancient, known, established principles of the British constitution. This information they were bound to convey, with all possible delicacy —with all imaginable tenderness,—approaching the subject with all the profound respect, all the reverence and awe, which the most devoted courtier can profess, as long as the question was only personal to the Princess. When it became constitutional, and touched the sum of affairs, they should have towered above all petty, paltry considerations, and for the sake of their characters as men—as statesmen—as the sworn advisers of the Crown—as the counsellors of her earliest youth—as the first ministers she ever had—as servants to whom she had proved the most confiding, most gracious, most kind of mistresses,—they were imperatively bound to tell her distinctly what they could not but distinctly know,—that the constitution of England allows of no parcelling out of royal authority—no *divisum imperium*—nothing but the monarch and the minister to govern with the parliament; and that it will never tolerate so monstrous an arrangement for the detriment of the state, as the retaining in high office, about the Sovereign's person, the wife or the sister of a leader of opposition. It was their bounden duty to inform the Queen that such a thing is utterly unknown to the constitution of the kingdom, and utterly repugnant to all its principles. Unnecessary changes in the household are to be carefully avoided; but, in the present instance, the retirement

of one or two of the ladies from the bedchamber was as necessary a part of the change as the retirement of their husband and brother from their offices.

I trust that such information has been afforded to her Majesty; but of this I am well assured, that if, for lack of it,—if, for want of appropriate counsel, or of needful instruction,—a most illustrious, amiable, and upright Princess has been brought prematurely into personal collision with the will of Parliament, or, which is the same thing, with the wisdom of Parliament, and if the interests of the country sustain damage from the shock; or if this mischief to the Queen,—this irreparable mischief to the Queen, as well as to her people, and to the frame of the monarchy itself,—shall arise out of the unconstitutional course which she may be advised to hold,—then all men will at once know whom to blame; they will know that she has been served, not by honest and trustworthy ministers, but by servile courtiers, base flatterers, false deceivers, worthless parasites. That such pernicious advice should ever proceed from my Noble Friend near me, I believe to be impossible. But whoever may have given it are highly answerable to the country, and are the Queen's and the monarchy's worst enemies. To them it will be owing that their confiding mistress begins her reign by a conflict with her parliament and her people, upon grounds wholly personal to herself, in which the public interests have no share—a conflict always most carefully to be avoided, because eminently perilous, even to a monarch whose long and peaceful reign has laid his subjects under a load of gratitude; but to a young Princess, who having just mounted the throne, has had no power of entitling herself to any gratitude at all,—to such a Princess, absolutely fatal. To those pernicious counsels will it be owing that her reign is begun, not auspiciously, but under every evil omen that can arise from early distrust, personal coldness, mutual alienation, which long years have no power to

remove, and unforeseen events may augment. I am sure my Noble Friend near me (Lord Melbourne), is the last man to tender such bad advice. From my personal knowledge of his character, I am convinced that he would make no sacrifice of honour in order to retain office. But there are others of whom I have no such opinion; and I fear his easy nature may make him lend an ear to them. I warn—I earnestly, solemnly warn him against them—men anxious only to keep hold of place, or eager to grasp it—those who cling convulsively to office, and those who yet more vehemently crave after it, hungering and thirsting for its sweets, which they only see at a distance, and prize the more, that, never having tasted of the cup, they know little of the bitters with which it is brewed and dashed. If to their urgency, and not to his own better sense, he, unhappily, inclines his ear, let him, and let them all, beware how they put the principles of our monarchical constitution to so severe a trial. Let them not strain it until, peradventure, it shall crack. The Noble Earl (Earl Winchilsea), believes in a conspiracy against kingly government, and sees in the conduct of some classes of the people indications of a design to effect a revolution for the purpose of pulling down the throne. It may be so. My fears are far less strong than his; though I will not say that we have no such party among us. But of this I am as absolutely certain as that I stand here addressing the House,—the most powerful allies of such a revolutionary party are the advisers and the authors of the late proceedings. The friends of republican, the enemies of regal, government, can desire no better fortune for their cause than a perseverance on the part of its friends and functionaries in this unconstitutional struggle; and if I thought that the revolutionary party were strong, either in numbers, or in intelligence, or in capacity, I vow to God I should believe that the days of the monarchy were numbered, when I surveyed, with dismay, the

rash, selfish, thoughtless, reckless, course now about to be pursued, of risking the stability of the monarchy upon a court intrigue, a bedchamber quarrel, and placing the personal feelings of the monarch, upon a purely personal question, in conflict with the sense of Parliament and the interests of the country!*

[The Government supporters having represented this speech as arising from Lord Brougham's hostility to the present ministry, the following speech, delivered by him last session (26th July, 1838) in the debate on the captured slave vessels, is here inserted. It was suppressed by all the papers except one at the time, according to the statement prefixed to the publication of it as a preface to the Glasgow edition of the letter to Lord John Russell. The present publication is unauthorized by his Lordship, being taken from the *Mirror of Parliament*, by permission of the proprietors of that work.—Advertisement to edition 1839.]

But there was one part of the Noble Earl's speech (Minto) which he at first was puzzled to comprehend. When he found him so far off from the African coast,† as to be hovering about the woolsack, and descanting upon the emoluments and powers of the Great Seal, he could not for the life of him conceive what the Noble Earl was after. But he soon perceived that it was all the while sarcasm in disguise. We had heard of "war in disguise," and this, it seemed, was "wit in disguise,"

* It was distinctly stated both in the House of Lords, by Lord Howden (a supporter of Earl Grey's government), and in the House of Commons, by Sir W. Follett, in the presence of Sir G. Grey, who replied to him on other topics, but made no observation on the statement, that Lord Grey was no supporter of the Government, but condemned the conduct they pursued. This statement was made in 1841; but it referred to their general proceedings, and undoubtedly there was no part of these processes more condemned by Lord Grey than that of May, 1839; so repugnant to all his principles, as shown especially in 1807, 1812, and 1820.

† The debate was upon the captured slave ship.

—so thick a disguise, indeed, that he questioned if all their Lordships, for whose behoof it was intended, had as yet pierced through to come at it. He (Lord Brougham), however, had. The humour was this—the office of chancellor is a very tempting prize to play for—great gain—vast rank—immense power—all this has a tendency to make men attack the holder and his colleagues in order to turn them out; that is to say—(for his meaning was quite plain, and here lay the whole sting)—"You (Lord Brougham), might naturally be supposed to attack the Government for the sake of turning them out, and clutching the Great Seal; you never tried what it was like before—you must naturally be desirous of rising to the top of your profession, which you have been so long looking up to, and so you attack us in order to reach it." Now he (Lord Brougham) at once admitted that the temptation of that exalted station was great to honourable minds. The emoluments of his Noble and Learned Friend's place were, of course, nothing—they were like the head-money to the crusiers, they cared not a straw about it—in their way it lay, and they took because they could not help doing so. So his Noble and Learned Friend (Lord Chancellor Cottenham) did by the salary, which he cared not at all for, only he could not well avoid putting it in his pocket. But to have great power—to bring, like his predecessors, the entire confidence of Parliament and the country—to have not merely high place, but these prerogatives and powers, without which it is not felt as any honour, but rather as a humiliation, by honourable minds—to carry all the measures of reform, in church and state, which he desired—to bring in important bills for amending the law—and, above all, for improving the court he presided over, and have them carried and not rejected by majorities of ninety-three to thirty-six—to leave the jurisprudence of the realm universally improved, and all men the better for his having been in office—to

illustrate his own name in the eyes of future ages by the great measures which he had instituted of wise, enlightened, and enlarged policy—measures which the confidence of parliament and the country had enabled him to carry,—these, he confessed, were attributes of his Noble and Learned Friend's high office, which any man of a generous ambition might well envy, and to these contemplations he (Lord Brougham) did not deny his mind was accessible. But great wits are said to have short memories, and very great wits like the noble Earl (Minto) have surely the shortest memories of all; else, how came he to forget, that if his (Lord Brougham's) attacks should turn out the Government, not he, but his Noble and Learned Friend not present (Lyndhurst), would take the woolsack? That was quite clear; and why the powers and profits of the Great Seal should tempt him (Lord Brougham) to turn out his Noble, and Learned, and much esteemed Friend (Lord Cottenham) for the purpose of planting his other Noble Friend (Lyndhurst) on the woolsack, the Noble Earl had never thought of explaining. He (Lord Brougham) had never before done anything to make the Noble Lord now absent (Lord Lyndhurst) chancellor. He had certainly never recommended him in any way to that high office. But he as certainly had recommended and effectually recommended, the other Noble Lord (Lord Cottenham) to the office, and he verily believed he had never rendered a better service to the suitors of the court where he presided, than by this proceeding; for he (Lord Brougham) conceived that he made an excellent judge in equity, and gave general satisfaction. Why then should he (Lord Brougham), having set up the ninepin, be so anxious to knock it down again? All this the Noble Earl (Minto) passed over, in the merry mood he was in. Possibly, indeed, he was not in the secret. But this was not his only omission as to facts—and facts which he must be aware of—though he might not be acquainted with the one

he (Lord Brougham) had just adverted to. If his (Lord Brougham's) quarrel with the Government had anything at all to do with the Great Seal, why did he not oppose them in 1835, when the ministry was formed? Why not, in 1836, when the Seal was given to its present holder? Why not in 1837? These were known facts and dates which there was no getting over—and the retail dealers in falsehood, who defend the Government through the press, wilfully shut their eyes to these well known things. But till this evening he had never known any minister who deemed it becoming or discreet to take the same line. Yet surely the Noble Earl must know that the quarrel, if quarrel there had been, on account of office and the Great Seal, was complete in May, 1835; and yet how had he (Lord Brougham) acted? If his opposition to the Government had any connexion whatever with his not being chancellor, how did it happen that in the whole session of 1835 he had stood by the Government, helping them at every turn—lifting them, whenever he could, out of the mire—keeping their heads above water to the best of his small means—saving, as far as his utmost exertions could, their existence for some months, during which they were fluttering between life and death—defending them at a moment when the least attack must have tumbled them down from their slippery position? Had he not, at the end of a laborious session of judicial business, in which he had presided voluntarily in the House, notoriously sacrificed his own health by undertaking the defence of the Government during the laborious month's combat on the English Municipal Bill? Had he not fought that bill through all its stages, for and with the Government, whose whole existence depended upon the measure? Then, in 1836, though absent at first for three months through illness brought on by his support of the Government the autumn before, yet for the last two months of the session he (Lord Brougham) was quite

recovered, and announced to the Government his ability to attend Parliament. But he did not—and why? Because on two important Reform questions he was compelled to differ from the ministry; and he was informed by them that his opposition might be fatal, circumstanced as they were then. All this was probably new to the Noble Earl (Minto). He was not in the secret. His colleagues told him what they liked about navy matters, and gave him their opinion about quadruple treaties, letting him down somewhat bluntly and unceremoniously. But this, which happened in 1836, they had not told him; yet certain it was, that he (Lord Brougham) at their desire, had kept away in order to keep them in their places. And yet the Noble Earl, not being in the secret, supposed, with some of the Government newspapers, that his (Lord Brougham) not being in office was the cause of his differing with the ministers, and made him wish to turn them out, in order that he might again seize the Great Seal. These newspaper authorities, however, from which the Noble Earl took his facts, should have known, and so should the Noble Earl, that his (Lord Brougham's) opposition, even in 1837, was confined to entering a reluctant protest against the Canada Bill, which had produced a civil war, and that in all other measures he had, during that session, supported the ministry. His opposition only began, as every man in the country knew, and as those slanderous assailants alone wilfully forgot, when, in November last, the Government took a new line against Reform of Parliament, and other reforms; and when on that and on their extravagant civil list, and their Canada Bills, and the slave question, they had compelled him to oppose them, if he (Lord Brougham) did not mean to abandon all his most sacred and most constantly avowed principles and feelings upon the whole policy of the state. These things were quite notorious—they were facts, and even had dates, which at once dispelled the whole charges made by wilful

fabrications out of doors, and at length, with an indiscretion to which great wits are too subject, brought forward by a cabinet minister in that House.*

* In the autumn of 1841, when the new Government was formed, Lord Brougham was strongly urged by the Lord Chancellor (Lyndhurst) and the Duke of Wellington, at an interview desired by his Grace, and which took place at the house of the former, to accept the office of Vice-President of the Judicial Committee, which it was proposed to establish, with an adequate salary, and to enable ex-Chancellors to hold it without abatement of their retiring pension. He declined this altogether, though very sensible of the delicacy of the statement with which the proposal was accompanied, that the office was to be regarded as merely judicial, as conferred upon him who had established the Court, and as in all respects whatsoever independent of, and unconnected with, political or party conduct. The only condition annexed, was that of agreeing to be named one of the deputy speakers of the House of Lords, but which, it was added, would not be insisted on if the objections entertained, both by Lord Lyndhurst and Lord Brougham, to taking that place, were still persisted in.

Some conversation having, in the Session of 1842, arisen in the House of Commons respecting the Judicial Committee, in answer to a question, whether the creation of such an office, as the one above mentioned, was intended, Sir R. Peel replied in the negative, which was, strictly speaking, correct, because the intention had been abandoned on Lord B.'s refusal the autumn before. But the Lord Chancellor took an early opportunity, in the House of Lords, in the debates, April, 1842, on the appellate jurisdiction, of expressing his regret that he had not been able to prevail upon Lord B. to accept the place of permanent Vice-President.

WELLINGTON SPEECHES

SPEECHES DELIVERED AT

THE WELLINGTON FESTIVAL.

Dover—August 30, 1839.

On the 30th August, 1839, the Cinque Ports celebrated at Dover a festival in honour of their illustrious Lord Warden, the Duke of Wellington, the one hundred and sixty-fifth bearer of that high office, filled first by Godwin, the great Earl of Kent, and next after him by Harold of England. The guests, more than two thousand in number, represented in especial the rank and riches of the Cinque Ports—their beauty, too, for six hundred of the fair maids and wives of Kent were present—but there were also in attendance, to do honour to the Cinque Ports and their Warden, many eminent men from other parts of the country, and from the opposite coast, whose chief towns were represented by their Mayors.

This speech is reprinted from an edition published at the time, by Messrs. Simpkin & Marshall, and which is understood to have been corrected by the Noble Speaker. W. Hazlitt.

[The rest of W. H.'s preface is omitted, in which he describes the reception of the speech.]

Lord Brougham:—I rise to discharge the duty which has been cast upon me, and to enjoy the honour which my fellow-citizens have bestowed. And

although I am well aware that on an occasion like this solemnity, no man has a right to entertain any personal sentiments on his own behalf, but that all selfish and individual considerations are necessarily absorbed in the contemplation of this great day and this great man, yet called upon as I have been, to stand forward and execute so proud and grateful an office, it would be affectation—it would be ingratitude—it would be insolent ingratitude—if I were not to express the feelings which glow within my bosom, at being made the instrument of expressing those which reign predominant in yours. This it is that bears me up, and causes me to exult in the position in which you have placed me, while fully sensible of all the difficulties by which it is surrounded. Enough of myself—now for my mighty subject. Yet the choice you have made of a representative, and, as it were, an organ, is not unconnected with that. For it tells, it loudly tells, that on this day, all personal, all political feelings are quelled; all strife of party is hushed; and that we are utterly incapable, whatever be our opinions on other matters, of closing our eyes to the lustre of transcendent merit, or steeling our hearts against the impulse of boundless gratitude for matchless services; and I therefore have been selected to represent you, as if to show that no differences on other subjects, how important soever, no diversity of public principles, however contrasted, no political hostility, for any other than political never could be felt, no habits of opposition, how long or how inveterate soever, can so far alter the very frame of our minds, obscure our perceptions, stifle within us the natural affections, as to pluck from the memory unbounded admiration of unrivalled genius in the arts of peace and of war, or relieve it from the painful sense of obligation when overwhelmed with a load of debt that never can be repaid. Party—the spirit of faction—may do much; but it cannot so far bewilder the memory, and pervert the judgment, and quench the

warmth that glows within us, and eradicate the sentiments which do our nature most honour, and dry up the kindly juices of the heart, by its infernal chemistry, making it as parched as the very charcoal, and well nigh as black.

And now what else have I to do, if I were master of all the eloquence of all the tongues that ever were attuned to speak? What else could I do, or how by a thousand words, by uttering all the names that can be named, could I speak so powerfully, were the tongues of men and of angels mine, as by pronouncing a single all-comprehensive word—SIR ARTHUR WELLESLEY—the DUKE OF WELLINGTON!—the hero of a hundred fields, over all of which his banner has floated in triumph—the Mighty Captain—I invoke both hemispheres,—bear witness Europe!—bear witness Asia!—the Mighty Captain, who never advanced but to cover his arms with glory—the Mightier Captain, who never retreated but to eclipse that glory by the far higher fame of unwearied patience, unbroken energy, indomitable fortitude, the wonders of a skill whose resources are exhaustless, the miracles of a moral courage which nothing can shake — despising the thwartings of ill-counselled advice — disregarding all blame so he knew it to be unmerited—laughing to scorn reviling enemies, jealous competitors, lukewarm friends—aye, hardest of all, careless even of the fickle public; but keeping his own course, and casting forward his eye as a man ought, else he is unworthy of commanding men, to the time when the momentary cloud must pass away from the public mind, well knowing that in the end the people is ever just to merit. The ordinary run of mankind are apt to be misled in their judgments. Dazzled by the splendour of great actions, they are prone to overlook the landmarks that separate the various departments of human desert. Oftentimes they are deceived by the glitter of the coin, and regardless of the die that guarantees its purity, or the weight

that attests the value of the metal. Thus you hear their applauses lavished upon martial deeds "of high emprize," justly, no doubt, but as if there were nothing more glorious than the triumphs reaped on the well-foughten field. Yet if Vimeira, if the Douro, and Assaye, and Talavera, Salamanca, and Vittoria, and Toulouse, and Waterloo,—if these shine bright upon the medallion that vainly attempts to perpetuate such fame, sober-minded and thoughtful men will pause ere they pronounce these to be the brightest achievements of the Great Captain's career. The reflecting mind will pierce below the surface of men's actions; and point the look of greatest wonder to the contemplation of the lines of Torres Vedras, long sustained by matchless firmness in the most adverse circumstances—the retreat from Burgos, in which consummate generalship vied with consummate fortitude—the battle of Busaco, won under accumulated difficulties. All meditation of human affairs and human conduct teaches us to set the highest value upon that genius which displays its temper and its extent by a skill as fertile of resources under adverse fortune, as swift in movements to meet sudden variation of circumstances—guided, supported, by a firmness of purpose which nothing can shake or can divert—keeping its own counsel unshaken, unmoved—and piercing the surrounding cloud to gain a view of the success upon which it reckons, because it has been well earned. This is a noble—this a moral courage—a courage unknown and incomprehensible to the vulgar brave!

To whom shall this great warrior, this great statesman be compared?—surpassing Marlborough in the field, and Temple in negotiation, and worthy of standing, higher there is none, on a level with the Illustrious Head of his house—the greatest statesman of the age he adorns! When I said that I had but to name a single name, and my task was done, much more may it now be asked, Why, having enlarged somewhat

further on this subject of inexhaustible fertility, I should still persevere and go on? It is not surely to perform a necessary work;—but it is, because there is a pleasing satisfaction to the mind arising from reflection upon great deserts—it is, because I feel that among the vast multitudes whom I now address, there is but one person who would not be displeased were my strain of unexaggerated praise here to cease; and I had rather encounter the certainty of giving that one individual uneasiness, than offend the throng who hang upon the recollections of his immortal career, by refusing to linger a little longer upon the marvellous theme. Shall I then go back to former ages, and ask if there be any comparison of Cæsar's history with his?—Cæsar, who surpassed him only in the worthless accomplishment of practised oratory, almost epidemic at Rome; our guest himself being all the while, in his own person (if you will trust a constant witness and no inexperienced judge),* among the most powerful and efficient of debaters†—Cæsar, who led the disciplined

* It is hardly necessary to remark, that we have no remains of his speeches; for the notes he gives of the addresses (*conciones*) to the soldiers, in his *Commentaries*, are only the heads, and were written long after; the speech in Sallust, like that of Cato, is plainly the historian's own composition. Sallust's diligence in collecting information upon that famous debate, must have been confined to the topics merely, though Cicero had laid the foundation of reporting, and even of short-hand reporting, on that occasion, by causing the debates on the conspiracy to be thus preserved, as we learn from Plutarch (Cato, c. 23). But even as to the topics, the Fourth Catalinarian shows how unfaithful Sallust's account of the debate is. Indeed, nothing can be more unfair than his whole treatment of Cicero.—Of Cæsar's letters two or three remain, and they are truly admirable.

† Accordingly he was (*experto crede*), of all the debaters in our day, with perhaps the exception of Lord Plunket, the most difficult to grapple with, the hardest to answer. Nor did it seem to make any difference that the subject happened to be one with which he was little conversant in detail. His speeches on commercial and financial questions were really as admirable as on subjects of foreign and military policy. Nay, I shall not easily forget the remark of one of the greatest orators of our times (Lord Ellenborough) when we left the House of Lords together, in equal admiration of the Duke's extraordinary speech upon Subscription, as connected with the Universities, a question with which he must be supposed little

and accomplished legions of Rome through the almost unresisting medium of savage hordes, without knowledge, without rule, without art; ill commanded—worse equipped—led them almost as a boat cuts through the wave, or an eagle cleaves the air—Cæsar, who never measured his arms with a worthy antagonist, until he brought back his troops inured to easier victory, and met the forces of his countrymen marshalled under a warrior broken with years, when the conqueror crossed that river which all the confidence of all the armies under the sun never could have tempted our illustrious Chief even to let the dream of crossing pass over his imagination,—the Rubicon, that separates the provinces of the honest, the peaceful, the loyal citizen, and of the traitor, the usurper, the tyrant? Or shall the comparison be made, and only made to be dismissed at once, with the greatest of all the ancient captains—the Carthagenian leader? But his consummate genius was debased, and the wonderful growth of his great faculties was stifled and choked by a base undergrowth of the very worst vices that can degrade and pervert the nature of man; and none will think of comparing the unprincipled profligacy, the worse than barbarian cruelty, the worse than Punic faith which predominated in him, with the stern integrity, the straightforward honesty, the artless simplicity, which form the principal charm in the character of the modern warrior. Unable then, in ancient times, to find a parallel, shall we

familiar: "Did you observe that the whole hour he spoke, not one topic but the best chosen, nor one word for which another equally fitting could have been substituted?" It is to be remembered that he greatly improved as a speaker after he became Prime Minister in 1828. The perfect modesty of his nature, with his unfailing good sense (if indeed the two things can be separated), made him incapable of harbouring any notion that it was beneath him to take pains: and as it had been once or twice thrown out in debate that he had a habit of begging the question (the pleasantry coming from a friendly quarter, that there were different kinds of beggars, the sturdy as well as the gentle and dexterous), it might be seen that latterly he carefully avoided falling into an error extremely natural to an unpractised orator.

come down to the great military genius of our own age? But Napoleon commanded the French armies, and did not conflict with them; he led, and did not meet in battle, his own accomplished and gallant marshals; while our own Great Chief, after defeating those marshals, one after another in succession, ended his glorious course by overthrowing their renowned leader himself. But it is as unquestionably true, and it is a truth both most striking in itself, and most useful for the purpose of public instruction to contemplate, that a vaster difference than any I have mentioned divides those chiefs of ancient days and of other countries, by an impassable gulf from ours. They were conquerors, inflamed with the thirst of dominion, and they spilt rivers of blood to slake it; they were tyrants, and nothing could quench their lust of power at home, but the destruction of liberty, as nothing abroad could satiate their appetite for conquest but the destruction of their kind. Our Hero has never drawn his sword but in that defensive war, which alone of all warfare, is not the greatest of crimes; never unsheathed it against the liberties of any people, but constantly, blessed be God! triumphantly, unsheathed it to secure the liberties of all; the servant of his Sovereign to command his troops, but the soldier and defender of his country; the enemy of her enemies, be they foreign or domestic; the fast friend to the rights of his fellow-citizens, and the undaunted champion of her free Constitution.

The tempest which so long resounded through the world, is now, thanks to him, hushed in peace. The shock which caused the thrones of Europe to quake, and the horns of the altar itself to tremble, thanks to him, has now expended its force. We may, thanks to him, look forward to pass the remainder of our years undisturbed by the turmoil of war that vexed the days of our youth. But if ever the materials of some new explosion should again be collected by the wickedness

of man; if the tempest should once more be let loose from its cave; if the shock, now no longer felt, should again make our institutions to quiver—happy the nation which knows where to look in its renewed peril! Happy the warlike councils which may be pursued under the guidance of his mature and manly wisdom! Happy the Sovereign to have at his command the right arm which has borne, in unbroken triumph, the English standard all over the globe! Happy the people that may again confide, not their liberties indeed—that is a trust which he would indignantly spurn—but confide in his matchless valour for their safety amidst all the perils which Providence might have in store for them! You of the Cinque Ports stand at the advanced post of the danger. If it should ever approach, through your lines the enemy that shall have dared to defile our shores must pierce; over your bodies he will pass, should he pursue his course towards the heart of the realm. But who stands vested with the command, and whom have we placed face to face against the attack? As on the prow of some gallant vessel, destined to bear against the hostile power the thunders of England, we plant the image of a Nelson or a Jervis, but only that the successors of those whom we have lost may be reminded of their feats of arms, and excited to emulate their immortal fame: so have you, men of Kent, not the lifeless figure, but the living warrior—the conqueror of a hundred fights—planted on the foremost point of the land, in face and front of all her invaders, to command your forces, to encourage his country, to make his sovereign secure, to perpetuate the independence of England, and to hurl the same defiance and dismay among the enemy's ranks by land, which the ships that bore Nelson's and Jervis's flag, scattered among his fleets ere it swept them from the sea. Then would be seen—what God forbid I should live to witness the occasion for—Wellington coming forth

a veteran warrior, and adding one bright superfluous page to the history of his imperishable renown!

I give you the health of the DUKE OF WELLINGTON.

The toast was responded to with an intensity of enthusiasm which beggars all description.

The DUKE of WELLINGTON said:—I beg to return you my thanks for the honour you have done me in drinking my health. I have also to return my thanks to the Noble and Learned Lord, who, I hope, will allow me to call him, my Noble and Learned Friend, for the manner and for the terms which he has used in recommending to you the services in which I have been employed by the Government of this country. I have likewise to express my acknowledgment to you for having invited me to be a guest at this magnificent festival. My Noble and Learned Friend has stated to you, with great truth, that there are times and circumstances in which and under which, all feelings of party, all party animosities, all descriptions of political feeling, must be laid aside. I must do my Noble and Learned Friend the justice to say, that for years and years there has been nothing of that description in social life as between him and me, although it is certainly true that I have had the misfortune of differing in opinion from my Learned and Noble Friend on many essential points of internal and possibly of other descriptions of policy. But, my Lords and Gentlemen, I am afraid that notwithstanding the cordiality in which I have always lived with you, and notwithstanding my anxious wish to co-operate with all of you in the public service in which you have all of you been employed, I may happen, and I know I do happen, to differ with many of you on subjects of political interest to the country. Nevertheless, my Noble and Learned Friend judges of you correctly when he states that such feelings of difference would not prevent you, as they have not prevented you, from doing me the

honour of inviting me to this festival, and bringing here to meet me, not only the whole of this interesting county, but also persons from all parts of England, and even from abroad, therefore my Noble and Learned Friend does justice to you, as well as justice to myself, and to every individual present at this meeting, when he says that there are occasions, as well in relation to individuals, as well as in relation to questions of public interest and service, in which all feelings of party politics must be laid aside, in order to carry on the public service to the greatest advantage for the public interest. I have had sufficient experience of public life, to know that this must be the case; and I am convinced that it is that feeling which gives rise to the desire you feel to pay a tribute of respect to the person filling the office of your Warden; and it is the knowledge that this tribute of respect is likely to excite others to perform their duty, who may hereafter have to discharge the functions of this office, which has induced you to give me this magnificent reception on the present occasion. It is true, and I am perfectly aware of it, that the office which I have the honour to fill, is neither so efficient as it was in former times, and under other circumstances of the maritime power and resources of this country; nor do its duties necessarily bring the person who fills the office so frequently into relation with all parts of the county, and all the towns committed to his jurisdiction, as they did in former times. But I am, and I have always been, frequently in communication with all parts of this district, upon their local interests and relations, and I am at all times ready to attend to everything upon which it may be thought that I can render any service, or can in any manner be useful to them. I trust every one who hears me is convinced of that fact, and that no one would scruple, at any time, if he thought I could render assistance to any of the Cinque Ports, to call upon me for any service it may

be in my power to render in all matters of public duty of this description; holding as I do my office under the Crown, I consider it my duty to do everything in my power for the service of the public, and of each individual part of the jurisdiction which has been placed under my charge.

House of Lords—12th November, 1852.

Lord Brougham:—My Lords, after what has fallen from my Noble Friend (Lord Derby), I should be doing a very superfluous act, were I to detain your lordships many minutes by attempting to follow him with unequal steps on the ground which he has so successfully trodden, or by adverting to other matters which I agree with him in thinking we shall more conveniently discuss on future occasions. Upon the subject of the Slave traffic to which he has adverted, and upon that other great subject of Law Amendment, called in the Speech from the Throne Legal Reform, I need not say how entirely I go along with him. On that which now so justly occupies men's minds and is so fitly made the leading subject of the speech from the throne, I would willingly forbear to dwell, did not its connexion with the great interests of this country and of the world, as well as the fear of misconstruction, make silence impossible—that ever glorious, but now painful subject, on which all are agreed, the irreparable loss which all deplore. It asked, indeed, no gift of prophecy to foresee, there was no risk in foretelling, that when he should yield to fate who never yielded to man, enemy, or rival, every whisper of detraction would be hushed, and each voice be raised to proclaim his transcendent merit. The event has surpassed the expectation. All classes, every description of his fellow-citizens, without distinction of rank, or party, or sect,—abroad as at home—the country

he served, the allies he saved, the adversaries he encountered, in just recollection of benefits, or in generous oblivion of differences, all, not inconsiderately, but with discriminating reflection, have joined with an assent so unbroken, so universal, as I verily believe is not recorded in the history of human renown.—And yet it is not his exploits merely, not his genius and his marvellous fortune, so apt to dazzle mankind, that we are called principally to mark. The example of his illustrious career is most to be studied for the constant abnegation of every selfish feeling which his whole life has displayed—the habitual sacrifice of all personal, all party considerations, to the single object of strict duty—of strict duty rigorously performed, in what station soever he might be called to act, so that his public virtue is even more to be revered, than his genius or his fortune to be admired. Heaven in its great mercy forbid that the time should come when we shall feel yet more sensibly than now we do, his irreparable loss.

I agree entirely with the Noble Mover of the Address, that we have no right whatever to dispute the course which any foreign country may pursue in the management of its own affairs. We can have no possible title to complain of the institutions which other nations may adopt, or disparage the rulers whom they may choose to set over them. But also, the Noble Lord will allow me to add, we lie under no obligation to regard the words rather than the acts of any Government, be it our own, or another; and as when the people, here or elsewhere, are fondly and most rationally desirous of peace, a mighty security for that unspeakable blessing is afforded by free discussion prevailing among them, of all kinds, on all subjects—so, I am bound to admit, this security is impaired by suppressing all discussion, of every kind, on every subject. Such measures may be quite right, or they may be wholly wrong; they may be abso-

lutely necessary to prevent mischief, or they may be absolutely impotent to avert it, or they may be productive of worser mischiefs. With that we have no concern—it is not our affair—we have no right to interfere; God forbid we should. But we have no right even to object; we may only as bystanders, as spectators, deeply interested, however, lament that any course should be anywhere pursued which weakens our protection against the last of calamities, not to us alone, not to this country or to that, but to Europe, to the world, to humanity itself—the disturbance of the general repose. Our security against that disaster is impaired—still I hope and trust that such evil times will not come — enough that they may. And assuredly it is not only our unquestionable right, but our imperative duty, to make timely provision against them. And, may I be permitted to add, that, in discharging this duty, we shall render an appropriate tribute to him for whom we now mourn—the tribute himself would most have prized, if, adopting the opinion he deliberately formed, we follow the counsel he so earnestly gave, and do that which, of all men, he of all things, had nearest his heart,—promptly and effectually complete the defences of the country, not neglecting, but cherishing her ancient alliances, most available when they are neither forced nor purchased, but having their origin in a common interest, and to be maintained by constant good offices and scrupulous good faith—good faith between government and government, good offices between people and people.*

* Regni præsidia, amici, quos neque armis cogere, neque auro parave queas; officio et fide pariuntur.—*Sal Jugur.*

House of Lords—8th July, 1847.

Lord Brougham wished to call their Lordships' attention to an important subject, and he should do so by moving for certain papers, and the correspondence connected with the Wellington statue. He would briefly state what the facts were. On the 18th of June, 1837, a meeting was held, at which it was determined to erect a statue in honour of the Duke of Wellington, and for this purpose the sum of £13,000 was raised by public subscription. Applications were made to the Government for a site for the statue, and the arch on Constitution Hill having been given, it was found that the money subscribed would be insufficient to obtain a statue of the size required for such an elevation. This was made known to the public, and the additional sum of £12,000 was raised. This second sum had been subscribed on the faith that the statue should be placed on the arch, and it was given by the grateful countrymen of the Duke in all parts of the world. Some clamour was raised on the part of the public, and was responded to in one House of Parliament, but not here; and that clamour so echoed was hostile to the continuance of the statue in its present position. The extent of the clamour had, however, been represented in very greatly exaggerated terms. It was really confined to a few; and people of good taste were now very much coming round in opinion, and approved of the present position of the statue. He (Lord Brougham) professed no knowledge of the arts; but, as far as his own opinion went, he had no particular admiration of the statue. The horse, especially, was not much like the Elgin marble horses. It was more like a real horse than an ideal horse, such as sculptors say ought to be represented when they are making statues of horses. But of the present *position* he must express his unqualified approval. Placed where it was, all eyes could see it, all eyes could rest

upon it; and he really should say, from all the quarters in which he had viewed it, he could not conceive a more commanding, a more admirable exposure. But there was another reason independent of this, which arose out of the offer made by his noble friend (Lord Morpeth, Lord of Woods and Forests), that if the Committee would agree to take the statue and put it on another pedestal, the Government would furnish them with one. He (Lord Brougham) was sure that inflexibility, whether as to bills or statues, formed no part of the character of his noble friend. He had so often given way on more general matters, that he might again on this. But the statue was not his to take. The statue did not belong to the Government. It belonged to the Government no more than the pictures in Belvoir Castle, or the watch in the pocket of the noble Lord opposite. It belonged to the subscribers, at the head of whom was his (Lord Brougham's) noble and most esteemed friend the owner of that castle (Duke of Rutland), whose unavoidable absence from town compelled him (Lord Brougham) now to address the House; for the Government to take it would be an act of confiscation, of spoliation.

But there was another reason why he, and why the owners of the statue wished it to remain there: it was in the neighbourhood of the illustrious Duke's mansion; and they would have it rest there, that while he enjoyed that repose, to which who has so great a right as he who has given repose to his country and the world—he should be enabled to rest that eye which has gained the fight and pacified the world, upon a monument not erected to his fame, to perpetuate which all brass and all marble would utterly fail, but that the attempt would be needless—a fame defying all time as it defied all rivalry. Yet a monument which he might be gratified and soothed to contemplate, which his grateful countrymen have erected, not to do that which would be alike superfluous and vain, but to redeem them-

selves from the charge of forgetting services which no gratitude can repay. He *knew* that his illustrious friend would feel hurt beyond expression if that statue were to be removed. And let no man fancy that his silence on the subject is to be taken as betokening consent. Why was he silent? Because it had been his constant, his characteristic, his magnanimous, his graceful practice, above all things, to abhor speaking of himself. Full forty years ago, Mr. Pitt said that he had talked with this great man on his return from India, where he signalized the dawn of his illustrious life; and said he, "to hear him speak of his Indian campaigns, you might have thought that he was a regimental surgeon, rather than the general of the army;" therefore it was that his noble friend could not bring himself to complain. He could not stoop to talk about himself or of any services which, to use his expression, "he might have chanced to render to his country;" but he added, "those must be idiots who could suppose that he should not feel insulted and held up to ridicule if that statue were now removed." My Lords (said Lord Brougham), I have now stated this case to the noble Lords opposite. I defy them to persist in their removal. Let them do so if they dare.

The noble and learned Lord concluded by moving for the correspondence on the subject of the Wellington statue.

No attempt was ever made to remove the statue. It was well known that Lord Brougham had been fully apprised of the Duke's sentiments, and was prepared to state more strongly, if it should become necessary, his Grace's extreme repugnance to the contemplated change.—From *Hansard's Debates*, vol. xciv., p. 13.

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